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TITLES AND DOCUMENTS

RELATIVE TO THE

25
3/11/237

SEIGNIORIAL TENURE,

REQUIRED BY AN ADDRESS

OF THE

LEGISLATIVE ASSEMBLY,

1851.



QUEBEC :

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1852.

STEWARTSON AND SONS

NEW YORK

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LEGISLATIVE ASSEMBLY,

FRIDAY, 29TH AUGUST 1851.

Resolved,

That an humble address be presented to His Excellency the Governor General, praying he will be pleased to direct that Copies of all *Octrois*, Deeds of Concession or Grants made, and to be found in the Archives or Public Records of the Province, of the various Fiefs and Seigniories in "*Nouvelle-France*," or Canada, from the earliest settlements thereof to the cession of the same in 1763, by the Crown of France to Great Britain, and also of those made since that period, be translated into English, printed and distributed in both languages, with all convenient despatch, among the Members of the Legislature, and to the several Municipalities throughout the Province, for public information, together with all such legal opinions, official and public documents relating to the Seigniorial or Feudal Tenure, or to the commutation or abolition thereof, of which the Executive Government may be possessed, and which His Excellency may deem necessary to the proper understanding of the relative rights of Seigniors and Censitaires; and to assure His Excellency that this House will make good any expense that may be incurred in consequence of his compliance with the present Address.

Ordered,

That the said Address be presented to His Excellency by such Members of this House as are of the Honorable Council of this Province.

Attest,

W. B. LINDSAY,

Clk. Assy.

OBTAIN

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DOCUMENTS

OBTAINED FROM THE ARCHIVES OF THE MARINE AND COLONIAL DEPARTMENT AT
PARIS, BY MR. FARIBAUT, UPON THE OCCASION OF HIS MISSION TO EUROPE IN
1851.

[5th May 1719.]

SEIGNIORIES OF CANADA.

To be submitted
to the Council of
the Regent.

—
The Council is of
opinion that a de-
cree must be made
as proposed by the
Sieur Begon.

L. A. D.
L. M. D.

Mr. Begon last year observed that in the deeds of concession which proprietors of seigniories grant to those who take lands therein, they introduce a variety of obligations; contrary to the Custom and to the settlement of the Colony.

Such are the *corvées* (day labor) which the seigniors exact, independently of an annual rent (*rente foncière*) for the common used for grazing cattle.

Other seigniors have resumed the possession of such common, after the clearing of the same by some of the inhabitants, for the purpose of selling it to others.

They further stipulate for *corvees* which are not mentioned by the Custom.

They reserve to themselves the right of resuming the possession of the lands they grant whenever the same shall be sold upon repaying the purchaser, which is also contrary to the Custom of Paris, to which they derogate in that respect, as is stated by them, to follow the Custom of Normandy. He stated that he thought proper to order that this stipulation should not be observed, in the contracts where it is found, and to prohibit the insertion of the same in such contracts as may be entered into for the future.

Some of the seigniors reserve to themselves, in the deeds of concession, the timber necessary for their houses and other buildings, and the wood necessary for their fuel, others reserve the timber fit for sale.

Others grant to their tenants leave to cut pine timber upon the lands which they have not yet granted, on condition that they shall pay them ten per cent upon the boards

they will obtain from such timber; by reason of which they do not concede these lands.

When they do concede them they reserve for themselves all the oak and pine timber without paying any thing therefor to such inhabitants, this enables the seigniors to exact any amount they please for the oak timber, and to sell it at a very high price; which is prejudicial to building and prevents the trade in such timber which would be carried on with the West India Islands and with France, if it were sold at a reasonable rate.

These seigniors also receive the eleventh part of the fish taken by their tenants upon the front of their grants.

They also subject them to the right of *banalité*, which is injurious to the Colony, where a large number of mills could not but be advantageous.

Upon which, it was decided by the Council, on the 12th of May 1716, that the Custom of Paris should be followed, and that all deeds made in contravention therewith should be declared void, unless it was shown that upon the Custom of Paris being established in Canada, His Majesty had made an exception, in relation to grants previously made subject to other Customs; which the Council has ordered should be ascertained, in order that some decision may be come to upon the subject.

Mr. Begon has been written to in consequence of this decision, in order that the fact may be ascertained.

By his letter of the 14th October 1716, he states that it appears that the first company of New France, formed in 1628, has made grants of lands in seigniority, *en fief*, more particularly in the Island of Montreal, upon condition that the seigniorial rights and fealty and homage should be made and rendered according to the Custom of Paris; and that by the 33rd article of the decree regulating the New Company formed in 1744, under the name of the West India Company, it was ordered by His Majesty, that the judges appointed in all the said places should be held to decide according to the laws and ordinances of the Kingdom, and the Officers bound to observe and follow the Custom of the *prévôté* and *vicomté* of Paris, according to which the inhabitants would be free to contract, without its being lawful to introduce therein any other Custom to avoid diversity.

He transmits copy of the article in question, to which His Majesty has adhered, and inasmuch as it is the intention of the Council that the clauses inserted in the deeds of concession, which are contrary to the provisions of the Custom of Paris, shall be declared null and void, it becomes necessary that His Majesty should make a decree so ordering it.

Thus done and decreed by the Council of the Naval Department the 9th May 1717.

(Signed) L. A. DE BOURBON,

(Signed) LE MARÉCHAL D'ESTRÉES.

By order of the Council,

(Signed) LACHAPELLE.

MESSRS. DE BEAUHARNOIS & HOCQUART.

10th October 1730.

Mylord,

During our residence in Montreal, complaints were made by several individuals that the seigniors refused to give them grants in their seigniories, under various pretexts, although obliged by the decree of the Council of State of the month of July 1711, to make such grants to the inhabitants who will require them, and in the event of refusal, that such inhabitants may apply to the governors and intendants of the country, who are commanded by His Majesty, to grant to the said inhabitants the lands required by them. We have the honor to report, that upon this subject a variety of abuses have been introduced, as well by the seigniors as by the inhabitants, which are alike contrary to the decree of the Council of State of 1711, and the settlement of the colony. Some seigniors have reserved considerable domains within their seigniories, and under the pretext that these lands form part of their domain, have refused to concede the lands therein which have been demanded by way of grants, believing they were entitled to sell and have in fact sold the same. We have also observed, that in the partition of seigniories among co-heirs, such of them as have not the right of jurisdiction, *droit de justice*, or the principal manor-house, ceasing to hold themselves out as the seigniors of the fief, refuse to grant to the inhabitants the lands which are required of them within the portion which has accrued to them, and deem themselves to be without the operation of the Decree, which compels seigniors to concede, and on the contrary believe themselves entitled to sell the lands which they grant.

Another abuse has arisen on the part of the inhabitants, who having the right of obtaining concessions from the seigniors, after having so obtained lands, shortly after sell them to others, the effect of which has been to establish a speculation in the country, injurious to the Colony, without furthering the settlement or the cultivation of lands, but tending to foster habits of indolence among the inhabitants, a practice to which the seigniors are not averse inasmuch as *lods et ventes* accrue to them by the sale of such lands; in this way a number of grantees do not reside upon their grants, and the seigniors are not anxious to reunite them to their domains, and when such re-union is demanded, those who are in possession cannot recover back the sums of money paid by them.

We are therefore of opinion that in enforcing the decrees of the Council of State of 1711, it would be necessary to render another decree prohibiting seigniors, and all other proprietors, from selling wild lands, under any pretext whatsoever, upon penalty against the seigniors and proprietors of the lands so sold, of the nullity of the deeds of sale, the restitution of the price thereof and of being deprived of all the right of property in the said lands, which would be, *de plano*, reunited to the King's domain, and reconceded, by us, in his name.

It is true that generally the seigniors concede, or appear to concede, their lands gratis, but those who avoid the provisions of the decree of the Council take means to

obtain payment of the value of such lands, without its appearing upon the face of the deed, either by obtaining obligations from the grantees for sums pretended to be due them for other considerations, or under color of some inconsiderable clearing without cultivation, or under pretence of natural prairie land found upon the grant.

If it had pleased M. Hocquart to adjudicate upon all the contestations arising from the abuses which we have had the honor to bring under your notice, he would have disturbed a number of families and have given occasion to considerable litigation. He has deemed that the grantees not having taken advantage of the provisions of the decrees of the council which were favorable to them, it was altogether attributable to them if they have paid sums of money for the grants made to them, and that they are not entitled to recover them back, according to the maxim of Law :

Volenti non fit injuria.

We believe that it is for the advantage both of the seigniors and of the inhabitants to allow matters to remain in their present state, awaiting the decree in Council which we have the honor to request, and not to alter the practice which has heretofore obtained. It would nevertheless appear to us equitable, that in the event of clearings or natural prairie land being found, the seigniors should derive the advantages therefrom, and that in the grants made by them such clearings and prairie lands should be indicated as well as the amounts received by them from the grantees.

The wild lands are becoming valuable in this Colony, inasmuch as the grantees in the front ranges require wood, and are under the necessity of asking for grants of land in the third and fourth ranges, to supply this want. The generality of the inhabitants are not aware of the provisions of the decree of the Council touching them in relation to this matter. M. Hocquart has caused some of the principal among them to be informed upon the subject, without causing publication anew of the decree. Before doing so he awaits the orders which we shall receive from you during the ensuing year.

We are with profound respect,

My lord,

Your very humble and very obedient Servants,

(Signed)

BEAUHARNOIS,

HOCQUART.

AT QUEBEC, the 3rd October 1731.

Mylord,

By the letter which you did us the honor of addressing us, on the 24th April last, touching the abuses which we brought under your notice in relation to the grant of

L. Com.

Concerning Seigniories and grants and rent-rolls, *papiers-terrier*.

lands in Canada, we observe that His Majesty has refrained making any decree, until our answer and our opinion had been received, and that you strongly urge upon Mr. Hocquart the necessity of completing the rent-roll, inasmuch as an inspection of that document is the only means of arriving at a definite conclusion upon this subject.

Mr. Hocquart has ever felt how important it was that the rent-roll should be completed in order to obtain therefrom all the information necessary to regulate the subject.

The Religious Communities have been principally the cause of the delay, Mr. Hocquart has however succeeded in obtaining from the Seminary of Montreal a statement or enumeration, *aveu et dénombrement*, of the lands possessed by that body in Canada, and it is to be hoped that the order of Jesuits, the Seminary of Quebec and other Religious Communities will not further delay the fulfilment of their obligations, for up to this period these bodies have seemed to hold back, none being desirous of first making the necessary declaration.

We shall ourselves await the completion of the rent-roll, to enable us to give to the answer and opinion expected from us by His Majesty the required degree of certainty and precision; we have nevertheless the honor of observing for the present, that many of the abuses remarked upon in our letter of the 10th October 1730 appear susceptible of immediate reform without the necessity of a reference to the rent roll. For this reason we deemed it proper forthwith to inform you upon the subject, although the rent-roll is still imperfect. Such, for instance, are the sales of lands made by some seigniors, although these lands are still uncleared, instead of merely conceding them at the rate of one *sol* of *cens* by the arpent and a capon by each arpent in front, which sales some of these same seigniors attempt to disguise under various pretences and by the different means mentioned in our said letter; such again is the system of location tickets as explained in the same letter. It is probable however that it is His Majesty's will to regulate the whole matter by one and the same decree, not deeming it proper to make a separate one upon each subject.

Nevertheless, if it pleased His Majesty to order the publication anew of the decrees of 1711, to prohibit the sale of uncleared lands upon pain of nullity of the deeds of sale and the restitution of the price of such sale, and to grant to the proprietors of seigniories still remaining uncultivated a further delay of a year or two to settle them or cause them to be settled, we are of opinion that independently of the rent-roll these orders would partially, if not altogether, remedy the abuses complained of. With res-

pect to the grants made by the seigniors to their tenants, Mr. Hocquart has, so far, complied with the decree of the 16th July 1711, and has since he is in Canada pronounced upon the re-union of 200 concessions to the domain of seigniors, by reason of the grantees failing to reside thereon, (*faute d'y tenir feu et lieu*).

He has nevertheless taken upon himself to give to such grantees a delay of six months or a year, before ordering such re-union, in order to avoid any complaint upon this subject.

This delay has enabled several to comply with the regulations with reference to the matter, and has induced them to settle their lands to avoid the penalties imposed by the decree of the Council of State of the month of July 1711.

We are, &c.,

(Signed) BEAUHARNOIS,

(Signed) HOCQUART,

From Mr. Raudot Senior.

16th November, 1707.

Mylord,

A business spirit, which, as you know, has always much more cunning and chicane than truth and uprightness in it, has begun, for some time past, to introduce itself here, and is increasing daily in its two bad features. If these could be retrenched, *this spirit might be good for the future*, although the simplicity which prevailed here formerly was better still. But, in dealing with the past, nothing, in my opinion, is more pernicious than this spirit, or more opposed to the peace and quietness of the people of a colony, which only maintains itself and increases by the labor of its inhabitants, who should not be afforded opportunities of neglecting their work. As there is hardly anything in their transactions with each other which has been regularly done, the notaries, bailiffs, and even judges, having been almost all of them ignorant persons, and the settlers especially, who have formed this colony, having improved their lands *without any available security from those by whom they were granted*, there is no property the possessor of which might not be troubled, no partition that might not be unsettled, no widow who might not be attacked as having possessed in common with her husband, no guardians against whom a law-suit might not be brought for the accounts which they have rendered of their guardianship. It is not that all may not often have been done in good faith, but ignorance and the want of rules observed in all such matters have produced these disorders, which would lead to greater still if those who might avail themselves of this spirit were allowed, either of themselves or by the advice of

others, to bring law-suits in consequence: there would be more law-suits in this country than there are persons. And as the judges are obliged to adjudicate according to rules of which they begin to have some knowledge, by applying them to cases in which ignorance has caused none to be observed, they would be led to commit a thousand acts of injustice, as I should have considered myself doing, Mylord, if I had entirely subjected myself to such rules in many law-suits that have come before me.

For all these reasons, Mylord, I think you could not do more good to the inhabitants of this country than by obtaining for them, from His Majesty, *a declaration which would secure the ownership of the lands, with all their appurtenances*, and according to the lines which have been drawn, to those *who have been five years in possession thereof*, either by working on them, or in virtue of any title whatsoever; which would also validate all partitions of estates that have hitherto been made; which would prohibit the bringing of any law-suit concerning the accounts of guardianship rendered and the renunciations made by women of the community with their husbands, and would forbid the judges to admit parties to sue on such matters; finally, Mylord, a declaration which would validate all judgments that have been given and all deeds and contracts that have been passed up to this time, and the rights that individuals have acquired against each other, *except in odious matters, such as deeds and contracts in which there may be usury, deceit or fraud, and possessions in which there may be violence or authority*.

It is thus only, Mylord, that you can establish peace and quietness in this country, which without this just precaution will always be unhappy and unable to increase, its inhabitants, who ought to attend to the cultivation of their lands, being daily obliged to leave them in order to defend themselves in many cases against unjust law-suits. I know this evil, Mylord, from all the affairs which continually come before me and with which it may be said that I have been overwhelmed ever since I came here, because these poor inhabitants finding me of easy access, and not being obliged to go any expense for pleading, hardly a day has passed but I have given several judgments on such transactions which had taken place between them before my arrival. There are even some who being afraid of law-suits, come and ask decisions of me, to prevent those that might be brought against them in future, their ignorance making them afraid of the least threats on this subject from others as ignorant as themselves.

I have had the honor to tell you, Mylord, that if His Majesty will grant them the declaration which I have the honor to ask of you for them, it is necessary to insert in it *in virtue of any title whatever*, adding even *were it only simple possession*, because formalities have not been much attended to in the grants that have been made here. *Many inhabitants have worked on the word of the seigniors, others on simple tickets which did not express the charges of the grant*. Hence a great abuse has arisen, which is, that the inhabitants who had worked without a safe title, have been subjected to *very heavy rents and dues*, the seigniors refusing to grant them deeds except on these conditions, which they were obliged to accept, because otherwise they would have lost

their labor : the consequence of which is, that in almost all the seigniories the dues are different ; some pay in one way, others in another, according to the different characters of the seigniors by whom the grants were made.

They have even introduced in nearly all the contracts a *retrait roturier* of which no mention is made in the Custom of Paris, although it is the Custom observed in this country, by stipulating that the seignior, at each sale, might withdraw the lands which he gives *en roture*, at the same price at which they would be sold ; and they have thus abused the right of conditional redemption (*retrait conditionnel*) spoken of in that Custom, which is sometimes stipulated in deeds of sale wherein the vender reserves to himself the power of redemption (*faculté de réméré*), but is not established as from the seignior to the tenant. This preference, Mylord, shackles improperly all sales.

There are grants in which the capons paid to the seigniors are paid either in kind or in cash, at the choice of the seignior. These capons are valued at thirty sous (fifteen pence), and the capons are not worth more than ten sous. The seigniors oblige the tenants to give them cash, which they find very inconvenient, as they frequently have none : for, although 30 sous appear but a trifle, it is a great deal in this country where money is very scarce ; and moreover it seems to me that in all dues, when there is a choice, it is always in favor of the party owing, cash being a species of penalty against him when unable to pay in kind.

The seigniors have also introduced in their grants the exclusive right of baking or keeping an oven (*four banal*), of which the inhabitants can never avail themselves, because the habitations being at great distances from the seignior's house, where this oven must be established, (which indeed could not be in a more convenient place for them, wherever placed, because the habitations are very distant from each other), they cannot, or could not possibly at all seasons, carry their dough to it ; in winter it would be frozer before it arrived there. The seigniors, even, feel themselves so ill grounded in claiming this right, because of this impossibility, that they don't exact it now ; but they will, at some future period, make a title of this stipulation to compel the inhabitants either to submit to it or redeem themselves from it by means of a large rent, and thus will the seigniors have acquired a right from which the inhabitants will derive no benefit. This, Mylord, is what I would call getting a title to vex them hereafter.

There is another advantage that, I believe, against His Majesty's intentions, some seigniors have taken of their tenants. To make you understand it, Mylord, it is necessary for me to have the honor to observe that the Normans being the first who came to this country, they at first established in it the Custom of le Vexin. As that Custom did not suit them with regard to their holding of His Majesty, they asked afterwards to be placed under the Custom of Paris in that respect, preserving the Custom of le Vexin against their vassals and tenants, because it is more favorable to themselves ; it seems to me that this would be another matter to be reformed by obliging them to follow the Custom of Paris in what concerns themselves, as they do in what concerns His Majesty.

I should therefore think, Mylord, under your pleasure, that to place things in some sort of uniformity and render the inhabitants that justice which the seigniors have not rendered them hitherto, and to prevent the latter from committing the vexations to which the former will undoubtedly hereafter be exposed, it would be necessary that His Majesty should give a declaration reforming, and even regulating for the future, all the rights and dues which the seigniors have given and will in future give to themselves, and that His Majesty should ordain that they should only take, for each arpent of the contents of the grants, one sou of rente, and a capon for each arpent in front, or 20 sous at the choice of the grantee; that the preference which the seignior stipulates for himself in case of sale of the lands held en roture should be suppressed; that the exclusive right of baking should also be suppressed; that in the places where fish is taken, the right of the seignior should be reduced to one tenth purely and simply, without any other conditions; that the exclusive right of grinding (*banalité*) should be preserved to the seigniors on condition of their building a mill on their seigniori within one year, failing in which, their right would be forfeited and the inhabitants would not be obliged, when one was built, to have their corn ground there: otherwise, Mylord, they will never be induced to erect mills, from the privation of which the inhabitants suffer greatly, being unable, for want of means, to avail themselves of the favor which His Majesty has granted them, by permitting them to erect mills in case the seigniors should not do so within a year.

This was granted to them in the year 1686, by a decree (*arrêt*) which was registered in the council of this country; but the decree of registration not having been sent to the subordinate jurisdictions to be published, the inhabitants have not hitherto profited by this favor, and it is only since my arrival here that the decree has been published: it having come to my knowledge in the course of a law-suit recently determined, in which this decree was produced, and one of the parties was unable to take advantage of it because it had remained unpublished. The fault can only be attributed to the sieur d'Auteuil, whose duty, as attorney-general to this council, it is to transmit such decrees to the subordinate courts; but it was his interest as a seignior, and also that of some councillors who are likewise seigniors, not to make known this decree.

It is thus, Mylord, that the King is obeyed in this country, where I can assure you that the interests of the King and the public, if they were not continually looked after, would be sacrificed to those of private individuals.

Letter from Mr. de Pontchartrain to Mr. Raudot senior.

13th June, 1708.

I have received the letter which you wrote me on the 10th of November last, concerning the state of the administration of justice in Canada.

I have been much pained to see the irregularity with which all has been done hitherto, and the difficulties in which the inhabitants would find themselves involved

if the deeds and contracts that have been passed were impugned for the informalities contained in them. I will examine the proposal you make to *confirm by a general decree all those who have possessed and cultivated lands for the last five years in virtue of any title whatever*. But as nothing can be done on this subject *till next year, examine again into the matter, and send me a memorandum of all that you will think should be inserted in the decree*.

It would be very desirable to *reduce the seigniorial dues throughout the whole extent of Canada to the same level*. See what could be done towards this end and report it to me, observing that once the Custom of Paris adopted as a rule, the *retrait roturier* cannot be admitted. I would also advise to admit neither the *retrait lignager*, nor even the *retrait féodal*, unless it was stipulated *by the concession of the fief*.

As to the dues paid to the seigniors, the valuation complained of ought only to take place when cash is wanting, unless the deed of concession say *at the choice of the seignior*; but *I would be for abolishing these dues, because they afford an opportunity of vexation*. I'll see what can be done in this respect and will inform you of it. With respect also to the privilege of baking (*four banaux*), all that is to be done is to follow and enforce the decree rendered in the year 1686, by which that matter has been settled.

I incline very much to your opinion with regard to the different degrees of jurisdiction at which the inhabitants of Canada are obliged to plead; but as it does not appear to me possible to suppress the provostships, on account of the complaints which their suppression would produce, I would advise that these provostships should adjudicate in *dernier resort* to a certain amount, above which the appeal from the seigniorial jurisdictions would lie directly before the superior council. Send me a memorandum of what could be done on this subject, with your opinion.

Letter from Mr. de Pontchartrain to Mr. Deshaguais, at Fontainebleau.

10th July, 1708.

Mr. de la Touche, on leaving Versailles, handed me, sir, a letter from Mr. Raudot concerning the administration of justice with which he is intrusted in Canada, together with a memorandum of the observations made by you on each article. I have sent an answer to Mr. Raudot in conformity with these observations, *and have told him that I would propose to the King to issue a declaration fixing the rights of the seigniors of parishes in that country who have conceded lands to settlers, as well for the past as for the future, at one sou of rent and a capon for each arpent of land in front, or twenty sous, at the choice of the party owing the same, according to your advice. I request you to make a draught of this declaration in concert with Mr. Daguesseau, as you propose*.

Here is a letter by which I request him to draw it up at his leisure, because I believe that the Canada ships have now left, so that we cannot send this declaration till next year.

I return to you Mr. Raudot's letter, with the memorandum of your observations on it.

To Mr. Daguesseau.

Same date.

Mr. Raudot, intendant in Canada, has written to me, sir, that that the seigniors of parishes in that country who have granted lands to settlers have subjected them to all the dues they pleased, which are almost all different from each other; that in most of these grants there are dues which ought not to be tolerated, because they afford an opportunity of vexation, and that it would be necessary to issue a declaration fixing the dues and rents of these seigniors, as well for the past as for the future.

I have requested Mr. Deshaguais to see you and take your leisure to draw up this declaration.

I send him Mr. Raudot's letter, which will inform you of what he writes on the subject.

Letter from Mr. Raudot to the Minister.

Quebec, 18th October, 1708.

Mylord,

I have received the three letters which you did me honor to write to me on the 6th, 13th and 18th of June last. I had been obliged, Mylord, in order to make you understand what I meant when I had the honor to ask of you a declaration securing the ownership of the lands to those in possession of them, to insert these words: "*in virtue of any title whatever*;" and for this purpose I had the honor to explain to you, by my letter of the 10th November last, that many inhabitants of this country had obtained grants of land on simple tickets; others have nothing in their favor but possession on the verbal promise (*sur la parole*) of the seigniors. Others again have lost or mislaid these tickets. There are even many contracts that cannot be found. The possession, even, of a part of these lands, had been much interrupted by the forced abandonment of them in consequence of the Iroquois war. Hence it results that the prescriptions established by the Custom can hardly avail to any one, and it is for these reasons that I think it would be necessary to insert in the declaration which I have the honor to ask

of you that the land should remain the property of him who had been five years in possession of it, or who held it by any title whatever.

It would also be necessary, with regard to the *seigniorial dues*, to make them uniform by reducing them all to the same scale; and for this purpose, Mylord, I have the honor to send you a memorandum containing the dues which I have found in several deeds of concession (a), all different from each other, opposite to which I have placed my opinion as to the diminutions and retrenchments that might be effected, and in so doing I have adhered to the earliest grants, which were made in innocent times, when people did not so much seek their own advantages; and I believe, Mylord, that the justice which is due to the inhabitants being thus maintained, His Majesty might, in his declaration, insert these words, without having regard to the charges, clauses and conditions contained in their title-deeds, that the dues should only be paid according to what would be contained in the said declaration.

As to the *retrait roturier*, you acknowledge, Mylord, with reason, that it ought to be suppressed in all deeds of concession, and the same might be done with regard to the *retrait féodal*, because if mentioned in the Custom of Paris, it was only in consequence of its being supposed that the fiefs to which it was applied were a portion of the seigniority from which they were alienated, and it was intended thereby to give the seignior the right to replace his fief on the same footing as it formerly was; but it is not so in this country, as the seigniors here gave the fiefs at the same time that they formed their seigniories, and these fiefs cannot be said to be a dismemberment of them.

With respect to the *retrait lignager*, it seems to me that it cannot be dealt with in the same manner, as it was established by the Custom for good reasons. It appears to me, on the contrary, that it should be viewed in a favorable light, as it perpetuates property in the same families, and insures a right to those to whom nature gives it. The only reason, Mylord, for which I have proposed that the privilege of baking (*fours banaux*) should be suppressed was the impossibility for those who are subjected to it of using the banal ovens at which they are obliged to bake, on account of the distance at which all the inhabitants of the seigniories are from their seignior's house, the seigniories in this country not being settled as they are in France, where almost all the inhabitants are collected in villages near each other, and all within reach of the banal ovens. Here the inhabitants of the seigniories, which are at least two leagues in extent along the river St. Lawrence, are all settled along the said river, so that the banal oven being in the seignior's house, which is always in the centre of the seignior, some inhabitants would have to carry their bread a distance of a league or even two or three from home. Besides the inconvenience to which this would subject them at all seasons, there is even an impossibility in winter, as their dough would be frozen before they reached the place where the oven was situated. It is a right, Mylord, which must be suppressed, because the inhabitants cannot derive any benefit from it and the seigniors have established or wish to establish it only to oblige them to redeem themselves from it by consenting to pay in future some heavy charge in consideration of the servi-

(a) I have not found this memorandum.

tude from which they would be liberated. It is not so, Mylord, with the banal mills, the banal mill being always to the advantage of the inhabitants, who have not the means of erecting mills themselves, whereas the banal oven is to their disadvantage, there being not one of them who has not an oven in his own house and as much wood as he wants to heat it.

From the abstract made for the King, of Messieurs Raudot and D'Aigremont's letters of the

4th and 7th November, 1711.

..... That being well informed of the pretentions of the Sieur de Cabanac, he cannot help saying that they are ill founded, since he will not submit to the general regulation which has been made in the Council at Quebec concerning the honorary rights due to the seigniors. He incloses the decree (*arrêt*) of the Superior Council of the 8th July, 1709, for these honorary rights, (here the words "and for those of the seigniors having high courts of justice" [*seigneurs hauts-justiciers*], are erased in the document deposited in the archives.)

Extract of a letter from the Minister to Monsieur Begon.

16th June, 1716.

It has examined what you stated on the subject of the grants made by the seigniors of parishes in Canada, and of what they exact from their grantees, according to the different Customs under which they have granted. The intention of the council is that the Custom of Paris should be followed; that all acts done against that Custom should be declared null, unless at the time when the Custom of Paris was established in Canada, the King excepted the grants previously made according to other Customs. It is necessary that you should ascertain this and send the documents, in order that the council may put this matter completely to rights.

Extract of a Memorandum from the King to Messieurs de Vaudreuil and Begon.

15th June, 1716.

His Majesty having no title to establish any *censive* in the island of Montreal, it is not his intention that the Seminary of Saint Sulpicius, seigniors of that island, should be disturbed in the rights belonging to them on the grants which they have made of

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several habitations, and the sieurs de Vaudreuil and Begon will make this decision public, so that the inhabitants of the island may have no pretext for not paying the rents due by them to the owners of these grants.

Extract of a Memorandum from the King to the same.

26th June, 1717.

..... Their attention to enforcing the decree of the 6th July, 1711, which reunites to the King's domain the seigniories that are not settled, and to obliging the seigniors having lands to be granted within the extent of their seigniories to grant them, is very necessary for the settlement and extension of the colony; they should prevent these seigniors from receiving money for the wood lands which they grant, as it is not just that they should sell lands on which they have spent nothing and which are given to them only for the purpose of being settled.

A Decree to annul, in the Deeds and Contracts of Concession executed in Canada, clauses contrary to the Custom of Paris, and to order that it shall be observed in future.

May, 1717.

The King being informed that the Company of New-France, formed in 1628, has conceded lands in fief, especially the island of Montreal, on condition that fealty and homage would be done and dues paid to it according to the Custom of Paris; that this Company, which held the country untill 1663, has introduced no other Custom there; that to avoid a diversity of Customs the late King, by the 33rd article of the Edict establishing the new Company formed in 1664, under the name of the West-India Company, prohibited the introduction of any other Custom in the countries granted to that Company, and ordered the local officers to follow and conform themselves to the Custom of the provostship of the viscounty of Paris, according to which the inhabitants of the said countries might contract; that notwithstanding the provisions of the said Edict, several of his subjects who hold lands in seignior in New-France impose, in the contracts of concession of the lands which they grant in their manors, very burthensome clauses and servitudes, contrary to the provisions of the said Custom and prejudicial to the settlement of the colony, such as the days of husbandry service (*corvées*) which they stipulate or exact, besides a ground rent (*rente foncière*), for the common which serves as a pasture-ground for cattle; the days of husbandry service which they again establish on account of the grants of land; the right which they reserve to themselves of re-entering into possession of the lands which they grant, every time that they are sold, on refunding to the purchaser the pur-

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chase-money; the reservation of the power to take on each grant, without paying anything for it, all the necessary wood for their houses or other works, or for their fuel; or of having the preference of all the wood, grain, cattle or other things which the inhabitants may have to sell; the reservation of all the pine and oak trees that may be found on each grant, without any payment, which enables them to exact such prices as they please for this timber, and is an obstacle to building, and prevents the trade in such timber which might be carried on as well with this kingdom as with the West India islands, if it were cheap; the reservation of the fish taken by the inhabitants in front of their grants, and the obligation which they impose upon them of carrying their grain to be ground at the wind-mills which they have on their seigniories, although such mills are not banal by the Custom of Paris, and the multiplicity of mills in a colony cannot be otherwise than advantageous, particularly in seigniories of great length and in which there are no water-mills; His Majesty being also informed that some of the said seigniors grant permission to their inhabitants to cut pine timber on the lands which they have not yet granted, on condition of paying them one tenth of the boards, planks and deals made out of such timber, which is so much the more prejudicial to the settlement of the colony as, in order to preserve this tenth, they do not grant these lands; and it being necessary to provide against all these abuses;

The report having been heard and the whole considered, His Majesty, being present in his council, on the advice of Mylord the Duke of Orleans, Regent, has ordained and does ordain that the said 33rd article of the Edict establishing the West India Company, of the month of May 1664, shall be executed according to its form and tenor; which being done, the inhabitants of the said country of New-France shall have power to contract only according to and in conformity with the Custom of Paris; His Majesty prohibits the introduction of any other Custom in the said country, and wills that all clauses inserted in deeds and contracts of concession or others, contrary to the provisions of the said Custom, be and remain null, as well for the past as for the future, and in consequence His Majesty has discharged and does discharge the inhabitants of the said country, towards the said seigniors, of all husbandry service (*corvées*), for any cause whatsoever; of the reservation of the right of conventional redemption (*retrait conventionnel*), as also of that of taking any wood, of what kind soever, whether for building or for fuel, without payment; of the preference for anything whatsoever that they may have for sale; of the reservation of the 11th fish to be taken by them; of the obligation to have their corn ground at the wind-mills, and of the execution of all other clauses contrary to the provisions of the said Custom; but the said inhabitants shall not have any claim against the said seigniors on account of anything which they may have given or paid, up to the day of publication of this decree, for servitudes or clauses contrary to the said Custom; and His Majesty forbids the seigniors to grant permission to cut timber on the lands which they have not yet granted, under the reservation of one tenth of the boards, planks and deals to be made therefrom, or under any other reservation or condition whatsoever; and His Majesty enjoins the said seigniors to grant the said lands to such inhabitants as may apply for them, subject to the usual dues, in default whereof he permits the said inhabitants to appeal to His Majesty's governor and lieutenant-general and the intendant of the said country, according to the decree of his council of

the 6th July, 1711: and the present decree shall be registered in the office of the Superior Council of Quebec, read, published and posted up wherever need may be, to the end that no one may be ignorant of the same, and all letters necessary to this effect shall be issued.

Extract of the King's Memorandum to Messieurs de Vaudreuil and Begon, of the
23rd May, 1719.

..... His Majesty has seen the memorial of the sieur Desjord Moreau, captain in the troops, who applies for a grant of land under the title of fief and seignior, with high, mean and low justice. His Majesty would willingly have granted him this favor; but the great number of seigniories having proved but too prejudicial to the settlement of Canada, it was resolved several years ago to grant no more of them; His Majesty has again explained this to the sieurs de Vaudreuil and Begon by his despatch of the 15th June, 1716, and his intention is not to change any thing. He will in future make grants in *roture* only. However, although he has directed them to make such grants of not more than 3 arpents in front by 40 in depth, in good lands, he will nevertheless approve of their giving them a greater extent if they think proper.

Extract of the King's Memorandum to Messieurs de Beauharnois and Hocquart, of the 25th April, 1730, on the subject of the contestations arising in the colony between the owners of fiefs and the parties owing them seigniorial rents and dues.—Ordinance rendered by Mr. Begon, June 21st, 1723, and those subsequently rendered by Mr. Dupuy, November 16th, 1727, and January 13th, 1728.

..... On the account which I gave the King, as well of the provisions of these ordinances, which contradict each other in every thing, as of the memorials which were sent last year on the part of the seigniors of fiefs and of their tenants, His Majesty has thought necessary to make his declaration hereunto annexed, in interpretation of the 9th article of that of the 5th July, 1717. He ordains that without regard being had to the ordinances of the said sieurs Begon and Dupuy, the *cens*, rents, dues and other debts contracted before the registration of the declaration of the said 5th day of July, 1717, when money of France, or Tournois, or Paris is not stipulated, shall be paid in money of France, deducting one fourth, which is the way of reducing the currency of the country to that of France; and that when money of France, or Tournois or Paris is stipulated, they shall be paid in money of France without any deduction. You will please to have the same published and registered, and you will take care that it be strictly executed.

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Letter from the Minister to Messieurs de Beauharnois and Hocquart.

24th April, 1731.

I have received the letter which you wrote me on the 10th October of last year, on the subject of the granting of lands in Canada, and I have given an account of it to the King. His Majesty has learned with pain the inexecution of the decrees of the 6th July, 1711, on the subject of these lands, and the abuses that are committed in violation of the said decrees. He would have determined, for the purpose of putting an end to a disorder as prejudicial to the settlement of the colony as to the interests of the inhabitants and of commerce, to issue a decree ordering the execution of those of the 6th July, 1711, and to declare at the same time null and void all grants of land in seigniory or in *roture* which have not been confirmed and have not been improved, and to forbid your making any grants of land until the terrier is completed and until otherwise ordained; but he has been pleased to wait until he has received your answer and your opinion thereon. These prohibitions have two objects: the first, to finish the work of this terrier; the second, to come at the reservation of the forests, in order to prevent the scarcity of wood, of which you state that the grantees of the front lands already feel the want, and also to form hereafter a domain for His Majesty in the country.

It will be only by examining the terrier that the extent of these forests can be well and usefully ascertained. Mr. Hocquart cannot therefore pay too much attention to this long protracted work.

From the abstract of Messieurs de Beauharnois and Hocquart's Letter of the

6th October, 1734.

Messieurs de Beauharnois and Hocquart send a statement of the different grants which they have made to various individuals since 1731, as well in fief as in *censive*.

(The list is here annexed. The grants which have been ratified by the King are pointed out).

Most of the grants in fief are situated on lake Champlain, where the settlements can only be made little by little. There are however already some settlers on those of the sieurs de Noyan, Daine and Léry. They will induce others to follow their example.

Those in *censive* are situated on the Detroit and are already nearly all settled. The title-deeds which have been issued for them contain nearly the same clauses with regard to reserves as the grants in fief, and the charges are also the same as those to

which individual seigniors usually subject their vassals, with the exception of the liberty which is given to the grantees on the Detroit to pay the cens et rentes in furs to the receiver of the domain, until there be a current money established at that post. They have had regard, in issuing these grants, to the claims which the sieur de la Motte Cadillac may have to a part of the lands on the Detroit, having maintained private individuals in possession of the lands which he had granted them, which they had improved and to which they had a title.

The grants made by them are in favor of other settlers on the Detroit, who have commenced clearings or continued those which had been abandoned and which had been successively distributed to them by the commanders at the post without any other title or formality.....

Lands in censivé on the Détroit (Straits) of Lake Erié.

16th June, 1737.

On the representations which have been made by the inhabitants of Fort Pontchartrain on the Straits of Lake Erié, to Messieurs de Boishébert, captain of a company of the detachment of marines, heretofore commanding at Fort Pontchartrain aforesaid, and Péan, knight of the military order of Saint-Louis, major of the town and government of Quebec, now commanding at the said Fort, and which have been reported to us, stating that hitherto they had not dared to undertake any clearings and to settle on lands at the said place, because they had no title that could secure to them the ownership thereof; that if we were pleased to grant them such titles, they would not only be enabled to work without running the risk of being molested, but that considerable advantages would result from their labors, by procuring at the said place an abundance of provisions, which would cause the garrison as well as the settlers and travellers to find an easy subsistence; to which having regard, and seeing His Majesty's letters-patent dated at Paris in the month of April, 1716, and registered at the Superior Council on the first December following, and the decree of the King's Council of State of the 19th May, 1722;

We have, in His Majesty's name, given, granted and conceded, and do hereby give, grant and concede, under the title of *cens et rentes*, from henceforth and for ever, unto ——— Chauvin, an inhabitant of Fort Pontchartrain on the Straits aforesaid, residing thereat, for him, his heirs and assigns hereafter, a piece of land situated on the Straits of Lake Erié, containing two arpents in front by forty in depth, bounded on one side towards the east-north-east by the land of one Faffart de Lorme, which he holds of the Sieur de la Motte Cadillac, by contract of the 10th March, 1707, bounded by a line running north-north-west and south-south-east, and on the other side towards the west-south-west by the ungranted lands, in front by the Straits of Lake Erié, and in depth by a line running east-north-east and west-south-west, adjoining also the un-

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granted lands, to be held, enjoyed and disposed of by the said Chauvin, his heirs and assigns, under the following charges, clauses and conditions, to wit :

That the said Chauvin, his heirs and assigns shall be bound to carry their grain to be ground at the banal mill when one shall have been established, on pain of forfeiture of the grain and of an arbitrary fine ; to keep or cause to be kept house and home (*feu et lieu*) thereon within one year from this date, at the latest ; to open the clearings (*découvrir les déserts*) of the neighbors as they may require it ; to cultivate the said land ; to allow thereon such roads as may be judged necessary for the public use ; to make the division fences (*clôtures mitoyennes*) as may be agreed upon ; and to pay each year, to the receiver of His Majesty's domain in this country, or to the clerk of the said receiver residing at the Straits, *one sou of cens for each arpent in front, and twenty sous of rent for every twenty arpents in superficies*, making for the said two arpents by forty in depth *four livres of rent, and moreover half a minot of wheat for the said two arpents in front* : the whole payable yearly on the festival day of St. Martin ; the first yearly payment becoming due on the 11th November 1735, and so to continue from year to year ; the said *cens* bearing profit of *lods et ventes, défaut et amende*, with all other royal and seigniorial rights when the case may occur according to the Custom of the provostship and viscounty of Paris.

It will however be optional for the said Chauvin to pay the said four *livres of rente* and the *sou of cens* in furs at the Détroit price, until a current money is established.

Reserving in the name of the King, on the said habitation, all the timber which His Majesty may want, for the erection of such buildings and forts as he may determine upon hereafter, as well as the ownership of mines, ores and minerals if any be found within the extent of the said grant.

And the said Chauvin, his heirs and assigns shall be bound to cause immediately the said grant to be surveyed, measured and bounded in all its length and depth at his own expense, and to execute the clauses contained in this title and take out a patent of confirmation of the same within two years, the whole on pain of nullity of these presents.

Done and given at Montreal, the 16th June, 1734.

(Signed)

BEAUHARNOIS and

HOCQUART.

(Here follows a series of grants in the same terms.)

Extract from a memorandum on the subject of the colony of Canada and of that which is projected in Isle-Royale (Cape-Breton.)

1st March, 1716.

In 1675, the King farmed out the domain of all the colonies to Jean Oudiette for the sum of three hundred and fifty thousand livres, and in this lease are stated all the

dues which the farmer was to collect, and His Majesty confided to him the task of getting a terrier made to regulate the rights of *cens* and *lods et ventes* which His Majesty had resolved to establish in the said colonies, to supply evidence in all times to come of his seigniorial and domanial rights, and to insure at the same time to private individuals the indefeasible right of property in their estates and inheritances. His Majesty at the same undertook to pay the governors and other officers of the land forces and of justice, employed in his service in these colonies. This charge was then but trifling, as there were none in Canada. Mr. de Frontenac had been appointed governor there by the West India Company: His Majesty confirmed the appointment, and contented himself with adding an intendant: it was Mr. Duchesneau who filled this office in the year 1675.

This intendant caused to be made, at the expense of the farmer of the domain, the terrier of Canada, and established therein the dues and *lods et ventes*. The intendants of the West Indies had not the same attention, and this order of the King has not been hitherto executed either in Cayenne or in the West India Islands. It is a work which deserves the attention of the council of marine.

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EXTRACT

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PROCEEDINGS OF THE COMMITTEE OF THE WHOLE COUNCIL,

Under the following Order of Reference relative to a Conversion of the present Tenures in the Province of Quebec into that of Free and Common Soccage: Printed by Order of His Excellency the Governor in Council of the 20th October, 1790, for the Use of the Members of the Legislative Council.

At the Council Chamber in the Bishop's Palace,
On Wednesday, the 25th of August, 1790.

PRESENT:

His Excellency the Right Honorable
GUY LORD DORCHESTER,

GOVERNOR,

The Honorable WILLIAM SMITH, Esquire, Chief Justice,

&

The Honorable HUGH FINLAY, THOMAS DUNN, EDWARD HARRISON, JOHN COLLINS, ADAM MABANE, J. G. C. DELERY, GEORGE POWNALL, HENRY CALDWELL, WILLIAM GRANT, FRANCIS BABY, C. DE LANAUDIÈRE, LE CTE DUPRÉ, Esquires.

Ordered by His Lordship, that a Committee of the whole Council investigate and report a statement of the comparative advantages and disadvantages of the Tenure in Free and Common Soccage, and the present Tenures of the Province of a different description, with a view to the public interest, as well as that of the individuals holding under such Tenures; that they deliberate, and in case a conversion of the present Tenures in Fief or otherwise into Soccage Tenure shall appear to be advisable, that they report upon the most eligible mode of effecting the same, without prejudice to the Rights of individuals, and the general Interest of the Country. In doing this the Committee are to attend to the Nature and Operation of the different Clauses in the Statute of 12 Car. 2, Cap. 24, by which Soccage holding was made general in England, giving Mr. Lanaudière at the same time an oppor-

tunity to be heard on his Petition for a conversion of the Tenure of his Estates into that of Free and Common Socceage, which was referred to a Committee of the Council on the 14th of February, 1788. And the Committee may call on Mr. Attorney and Solicitor General for their opinion on the subject matter of the reference, if they shall conceive the same to be necessary, and take all such other means as they may think proper, for acquiring the necessary information; and further, if the Legislative interposition shall appear to be necessary, the Committee are to report such draft of a bill as the case may require.

Letter of the Surveyor-General and Deputy-Surveyor-General, inclosing an Enumeration of Grants to the Amount of 7,985,470½ Acres.

SURVEYOR GENERAL'S OFFICE,

Quebec, 25th September, 1790.

" Sir,

" The inclosed List of Seigniories and their contents was formed in pursuance of the Right Honorable Lord Dorchester's Commands signified to us by Letter from Mr. Secretary Motz, of the 28th August.

" We have had recourse to the Public Records for the purpose; and 'tis possible, tho' we are not aware of it, that there may be a grant or two, and perhaps more, that have escaped our researches, and there may, for want of accurate actual surveys, be some mistake in the computation of their contents, and particularly of the Islands, from their irregular figures.

" We have lately had occasion to shew the comparison between the granted and ungranted Territories, on the South side of the St. Lawrence; but the want of surveys, and the immense extent of the Province, on the North, and in the North-West, renders such a comparison on the North side at present impossible, nor can be expected for an age to come.

" All we know is, that these vast regions furnish abundant scope for settlement and cultivation, and an innumerable population, especially to the West of the Meridian of this City, tho' the Countries North and North-East of that Meridian are mountainous up to the limits of the Hudson's Bay company.

" We are, Sir, your most Obedient Humble Servants,

(Signed)

" SAMUEL HOLLAND,

" JOHN COLLINS, D. S. G.

" Honorable WILLIAM SMITH, Esq."

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REPORT OF THE SOLICITOR GENERAL.

TO THE HONORABLE MEMBERS OF THE COUNCIL.

May it please Your Honors,

Anxious to contribute all the Information in my power to the Honorable Board of Council upon the subject of the Letter I received from His Honor the President on the 31st of August last, inclosing several important questions relating to the Tenures of Estates in this Country, and suggesting the idea of converting the same into Free and Common Soccage; I submit the following Answers to those Questions for the consideration of the Board. It is fit I should inform the Honorable Board that the present dangerous state of Health of the Attorney General has defeated our intentions of making a Joint Report, and I may urge with truth that the daily avocations of my other public department have greatly impeded my deliberations on the present subject, but as expedition may be wished and expected, I shall state my Answers concisely, but I hope with a degree of precision.

Question 1.—“ Upon what Tenures were the Lands of this Country granted by the French Crown ?

The Civil Constitution of Canada was established upon the Feudal System; large Tracts of Land were granted by the French Crown *en Fief et Seigneurie*; these Estates are styled *Biens Nobles*; small parcels and Town Lots were granted by an Ignoble Tenure, called *Roture*.

There are some, a very few, allodial grants; the Tenure is termed *Franc Allou Noble* and *Franc Allou Roturier*: a fewer still by that Tenure which is of a spiritual nature called *Pure Aumone*, or Frank-almoign.

Question 2.—What kind of Tenure was most prevalent and what may be stated in probable conjecture for the proportion between them?

In the Country, the Tenure *en Fief et Seigneurie* were almost universal. In the Town of Quebec, several small parcels were granted upon the same Tenure; and there, as well as at Three Rivers and adjoining to the Forts of Crown Point, Detroit, &c., small parcels or lots were granted *en Roture*.

The proportion in favor of Fiefs and Seigneuries (alluding to the Royal Grants) is beyond comparison greater than all the other *Tenures*.

Question 3.—What securities had the French Crown by the Law of the Country, or the Nature and Tenor of the grants, to compel or promote the Cultivation and improvement of the land granted?

A power of reuniting the Estate to the King's Domain, in default of Cultivation and Improvement by the Grantee, was the only, if it can be deemed any security of the Crown; and this

1st. By the Ténor of the grant, almost universally stipulated; and

2th. By virtue of two Arrets of the King, of the 6th of July, 1711, His Arret of the 15th of March, 1732, and his Declaration of the 17th of July, 1743. Several Seigneuries, and more particularly those near Lake Champlain, were, antecedent to the Conquest, at the instance of the King's Attorney General, reunited to the King's Domain, by Ordonnances of the Governor and Intendant, for want of Cultivation and Improvement made by the Grantees, and afterwards regranted to others, and in some instances to the same Grantees.

Question 4.—What were the legal Burdens upon the Grantee of the Crown in reservations, conditions, rents and services; or what were the benefits accruing to the French Crown from the Nature of the Grant, founded in the usual reservations, or by the general laws of the country?

The Grantee and his Heirs and Assigns, by the Tenor of his Grant and by the law of the country (Art. 32 and 35 of the Custom), were bound to render Fealty and Homage to the King (by his Representative) at the Castle of St. Lewis in this City; the vassal was bound at the same time, or within forty days after, (Art. 8, 10 and 11), to deliver to the King's Representative an Aveu et Denombrement, that is to say, a particular statement of his Title, the extent of his Fief, its dependencies, appurtenances and prerogatives, whether he had a right to hold Courts of Justice, high, inferior or low Justice, any and which of them; the amount of the rent of the Clerk's and Notary's Offices, Fines and other Rights; his Manor-House, the lands of his Domain, the quantity and quality of his arable, meadow, pasture and wood Lands, what Ponds and Lakes; what Farm Houses and other Buildings he had on his Domain, the boundaries of the Farms, their revenue and to whom let, or whether he cultivated them himself, the annual amount of the *cens*, rents, and other dues, with the number and names of his *censitaires* or *terre-tenants*, or others subject to pay rent to him; the Rights and services he owed on account of his Fief, whether he had Right of Mill; the Lands granted *en roture* on his Estate; and a particular designation of the *arrière* or *rere-Fiefs*; how he became entitled to his Fief and Seigneurie, whether by Succession (and particularly whether in the Line direct or collateral), by purchase, gift, or how otherwise.

Upon the sale or other mutation of the Fief (except in the direct line) the Fine called *droit de quint*, or a fifth part of the amount of the purchase money was payable to the King, at the time of rendering fealty and homage, (Art. 25), in respect of Lands governed by the Custom of Paris, which is the general Law of the Country; and in respect of Lands governed by the Custom of *Vexin le Français* (for there were some few grants made subject to that Custom) a Relief, *i. e.* one Year's Revenue of the Fief sold (Art. 33), and not the Quint, was payable upon every mutation whatsoever.

The King might use his Right of *retrait féodal*, the *jus retractum*, within forty days after notice given of the Sale of any Fief and Seigneurie made by his Grantee, reimbursing the Purchaser his purchase money, and the legal expences (*loyaux couts*), Art. 20; but this Right ceased after an Investiture of the new Vassal.

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A few old Grants made by the India Company stipulated that on every Mutation a Medal of half an ounce or an ounce of Gold (*une Maille d'Or*) should be paid the Company in lieu of the Quint.

The usual Reservations and Conditions in the more ancient Grants were :

1. That the Grantee should, within a Year and a day, build an Habitation upon, and actually inhabit the Lands (*tenir feu et lieu*) and cultivate and improve the same (*désarter et mettre en valeur*) and cause his Ter-Tenants (*Censitaires*) to do the same within the same period ; (some Grants mention that the Lands are to be stocked with Cattle in two years); in default of which the King should of Right re-enter into the possession of the Lands granted—but a formal Process for the Reunion was however thought necessary, and always prosecuted by the Attorney General.

2. That the Grantee should preserve all Oak Trees growing on his Domain, and cause all Oak Trees fit for the Construction of the King's Ships to be preserved by his Subfeudatories (*Censitaires*).

3. That the Grantee should give immediate Advice to the King or his Governor and Intendant, of the discovery of all Mines, Ores and Minerals (*Mines, Minières et Minéraux*) found in the Lands granted ; with exception only to two Grants, wherein they are expressly given to the Grantees.

4. That the Grantee should get the Grant ratified by the King, generally within the period of one Year.

5. That the Grantees should permit the necessary Roads to be laid out for public Utility, and cause a Clause to be inserted in their Concessions to the Ter-tenants that they should do the same.

The more modern Grants contain the same Reservations and Conditions, but they also contain additional Stipulations, namely :

6. That in case the King should have occasion for any part of the Land granted for the purpose of building Forts, Batteries, Places of Arms, Stores, or other Public Works, he should be at liberty to take the same, together with the Trees and Timber that should be necessary, and also, Firewood for the supply of the Garrisons, within the extent of the Lands granted, without being held or bound to make any compensation to the Grantee.

7. That the Grantee should allow the free use of the Beaches to all Fishermen, except such part as he might stand in need of for his own Fisheries.

8. That the Grantee should concede Lands to his Subfeudatories at the accustomed Rents and Dues (*cens et rentes et redevances accoutumés*) for every Acre in front by forty in depth ; about a fourth part only of the Grants contain this Clause.

9. In many of the latest Grants the King reserves the Right of taking Oak Timber, Masts, and Yards (*mâtures*), and all other Timber proper for the Construction and Equipment of his Ships, without making any Compensation for the same—and in one Grant the King reserves the Red or Pitch Pine for making Tar.

There were no Rents reserved to the King by the Grants made in Fief and Seigneurie; nor were the Grantees liable to any legal Services, except rendering Fealty and Homage to the King's Representative, and furnishing the *aveu et denombrement* in the manner before described, but this they were bound to on pain of the *saisie féodale* of their Estates. (Art. 1.)

By one of the Arrêts aforementioned of the 6th July, 1711, the Grantees were bound to concede Lands to their Subfeudatories for the usual *cens et rentes et redevances*, and by the Arrêt of the 15th of March, 1732, upon non-compliance on the part of the Royal Grantee, the Governor and Intendant were impowered and directed to concede the same on the part of the Crown, to the exclusion of the Grantee, and the Rents to be payable to the Receiver General. The Grantees are thereby also restricted from selling any Wood Lands (*bois debout*), upon pain of Nullity of the Contract of Concession, a Reunion of the Lands to the Royal Domain, and Restitution of the Purchase Money to the Subfeudatory.

The Benefits accruing to the French Crown from the Nature of the Grants *en fief et seigneurie*, were casual; under the Custom of Paris, the Revenue of *quint* (a third of which was usually remitted), and under the Custom of *Vexin le Français*, a Relief. I have mentioned the *droit de retrait féodal*.

By the *roture* Tenure, the Grantor, whether the King directly, or his Grantee *en fief* *mediately*, stipulated a specific Sum (one Half-penny for every Acre in Front by forty Acres in Depth) payable to him by the *roture* Grantee annually on a fixed Day, and at the Seigneur's Mansion House, for what is termed *cens*, evidencing thereby that he was the Seigneur *censier et foncier*, or immediate Seigneur of the *roture* Grantee, *marque de la directe seigneurie*: a specification indispensably necessary to intitle the Seigneur to be paid the *lods et ventes*, upon every subsequent alienation of the Land granted, (*cens porte lods et ventes*), and another specific Sum (one Half-penny for every superficial Acre contained in the Grant) for what is called *rente*. In the Towns of Quebec and Three-Rivers, the Reservation of the *cens et rentes*, for small Lots, are variable and very low, but specifically ascertained.

Upon every Mutation of *roture* Lands, the new Proprietor was bound to produce his Titles to the Seigneur, and in forty Days after exhibiting the same, the Seigneur, in case of a Mutation by Sale, and even upon Donations *inter vivos*, from a Collateral Branch or Stranger, was intitled to the Alienation Fine called *droit de lods et ventes*, (Art. 73), which is the twelfth Penny or a twelfth Part of the Price or Value of the Land; a fourth of the Fine was usually remitted by the Seigneur, but without any Obligation so to do.

The King, by Virtue of an Edict of the 20th March, 1673, had the Right of *lods et ventes* upon exchanges of one inheritance for another, on Lands granted by the Crown *en fief et seigneurie*. But this Right was limited to the King alone, and did not extend to his Grantees *en fief et seigneurie* over their subfeudatories, except the Seigneurs of the Island of Montreal, to whom this Right was given, in lieu of the *droit de justice*, which they relinquished.

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These are legal burdens, but clearly ascertained.

The Benefits accruing to the French Crown from the nature of the Royal Grants *en roture*, were merely the *cens et rentes*, and the Casual Revenue of *lods et ventes*, with the Right of Pre-emption, but this Right ceased after seisin given to the proprietor.

The *Roture* Tenants in Canada, in Virtue of the King's Edict of the 4th June, 1686, and the provincial Judicial decisions given in consequence, were bound to the servitude of grinding all the Corn for the consumption of their Families at the *banal* Mills of their Seigneurs. The Toll is a Fourteenth Bushel; and the Penalty for a Contravention, under the Authority of Provincial decisions, is understood to be the Payment of *Double Toll*.

Question 5th.—“What were the Benefits which the Grantee of the Crown might draw from the subfeudatory; or what were the burdens, the acknowledgements, Rents and Services, to which the occupants under the Royal Grantee were liable from the nature of the Concession or by the Law of the Country?”

This is in great part answered upon the fourth Question, in respect of the Benefits which by the Law of the Country (independant of conventional stipulations) the Grantee of the Crown might derive from his subfeudatory; and which in fact are the burdens that the subfeudatories are liable to. But the Grantees, of long usage, imposed other stipulations in their contracts of Concession to the subfeudatories; such as the *Retrait Conventionel* (the *Jus retractum*), the payment of one or more Bushels of Wheat annually, one or more Capons, a certain number of days' labour (*Corvées*), &c. But these are Conventional Burdens.

Question 6th.—“Was the Estate of the Grantee of the Crown subject to partition by Marriage Contract, Testamentary Disposition, or any other mode of alienation, voluntary or judicial, and by inheritance in the Lines Direct or Collateral; or was any Estate held impartible and unalienable, or in the nature of an English Intail?”

I conceive the Common Law of this Province, in relation to the powers to be exercised by Marriage Contract, testamentary disposition or any other mode of alienation, respecting the tenure *en Fief et Seigneurie*, and that *en Roture*, to be indiscriminately the same.

By Contract made before Marriage, the contracting parties might make such stipulations respecting both their Real and Personal Properties as they unitedly judged fit. They might stipulate that the real as well as the personal property belonging to both, or either of them, or any designated part thereof should, or should not, enter into the conjugal partnership. But after Marriage, Inheritances descending to either of them by succession in the line direct, or Collateral, or given by Donation or otherwise in the line direct (unless the contrary were expressed in the deed of Conveyance) to either of them, did not enter into the *Communauté* or Partnership. Estates given collaterally, or by strangers, to either of them, after marriage, became a part of their joint property; but by express stipulations in the conveyance, the liberality of the Donor might be prevented from becoming a part of the common stock.

Antecedently to the Quebec Act, 11th of His Majesty, ch. 83, a fifth part only of Estates descended by Inheritance, which are termed *Propres*, could be devised or other-

wise disposed of (except in cases of actual sale) to the prejudice of the Heirs direct or collateral, who in that respect might be said to have the expectant Reversion of the other four fifths.

Real as well as personal property acquired or purchased pending the *Communauté*, which are termed *Conquêts*, being the fruits of the joint industry of the husband and wife, were a part of the joint stock and partible as such.

In case of Marriages without a previous Contract, no part of the real property of either husband or wife, before marriage, entered into the *Communauté* by the Municipal Law; their personals alone did so.

Estates en fief et seigneurie, are partible in the manner following:

The eldest son, in the nature of a jointure (*par droit d'ainesse et préciput*), succeeds to the Mansion House (*château ou manoir principal*), the Inner Yard (*basse cour*), and superficial Acre of Land adjoining to the Mansion House, supposed to be an inclosed Garden (*un arpent de terre de l'enclos et jardin*), if there be such; and if there happens to be a Mill within that Inclosure and annexed to it the Right of Bannality, the body of the Building belongs to him, but the profits of the Toll are not vested in him alone, they are divided in proportion to the inheriting Rights of each of the Heirs (Art. 13 and 14). If it should happen that there were but a son and one other child to inherit, the eldest son succeeded to two thirds of the Estate, his Brother or Sister to the other third (Art. 15).

If there were more Children, the eldest Son succeeded to one moiety, the other Children to an equal proportion of the other moiety (Art. 16).

The *droit d'ainesse* did not extend to females, but successions in the direct and collateral lines were divisible in equal portions. (Art. 19).

In the Collateral Line, females did not succeed with males in equal degree, (Art. 23).

Upon Marriages had without a previous Contract, the Widow had her customary Dower (*le douaire coutumier*) which was a moiety for her life of the Revenue of her Husband's real estates possessed at the time of his marriage, and those descending to him in the line direct pending the marriage, (Art. 247, 248); descendible to the issue of the marriage, (Art. 249); upon renouncing to their Father's succession (Art. 250); for they cannot claim to the estate by inheritance and to the right of dower. *Nul n'est douairier et héritier de son père* (Art. 251).

Estates subject to the customary dower, stood pledged (*hypothéqués*) from the day of the marriage for the security of the Widow and Issue of the marriage, and if aliened afterwards, they continued subject to her and their rights.

Marriage Contracts, donations *inter vivos*, and by testamentary dispositions, and entail, which the civilians term *substitution (fidei-commissaire)* may be created (though I know no instance of it in this province, but there may be some) so far down as the second degree (*P'Ordonnance d'Orléans*); they must be published and enregistered in the proper Court of Justice within six months after the date, if *inter vivos*, and within

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the same period after the decease of the substitutor if it be a testamentary disposition, and in that case they cannot be purged or affected by any judicial decree whatsoever, except respecting debts due by the substitutor.

7th Question.—“ Were the subfeudatory Farms of the concessions of the Tenantry held under the Royal Grantees, devisable, descendible, alienable and partible in the like manner without limitation ? ”

With exception to the partition of the *roture* lands among the heirs, which were partible among them in equal shares, without the *droit d'aînesse* or other preferable right, the answer to the sixth question applies.

8th Question.—“ Would a conversion of the French Tenures into the Tenure of Free and Common Soccage be advantageous to the proprietor holding by grant of the French Crown in Fief, Seigneurie or Roture, discriminating its effects as to the parcels that are settled, or such as are still unconceded and uncultivated ; and what in particular appears to you to be the instances of advantage or disadvantage to result from such conversion ? ”

There appears to be engrafted on the Royal Grants the fiction of Feodal Tenure, drawing after it the servile appendages of Alienation Fines, etc, *quints* and *reliefs* upon the Tenure *en fief*, and *lods et ventes* and the servitude of *banalité* upon that *en roture* ; and therefore a general answer to this question can give no embarrassment ; nor can I hesitate saying that a conversion of those Tenures into that of Free and Common Soccage, which is not subject to those appendages, would be advantageous to the *roture* Grantees of the Crown.

With regard to the Royal Grantees *en fief et seigneurie*, such a conversion, if unqualified, might and I think would operate a heavy loss to most of them, by being deprived of their certain revenue of *banalité*, and their casual revenue of *lods et ventes*.

The *droit de justice*, accorded to them by their Grants, which tho' exercised in many seigneuries antecedent to the Conquest, but tacitly relinquished, or at least not exercised since that period, is an object frequently mentioned by the seigneurs, to whom by their grants that right was given.

The *haute justice*, on account of the Prisons which the *seigneur haut justicier* was bound to erect and maintain, as well as of the necessary Officers of that Justice, might be considered onerous upon them, but on the other hand, they were entitled to the confiscated estates and effects of persons convicted of Felony within their seigneuries, to estrays, to estates escheating for want of heirs, to the possession of vacant inheritances, and to judicial fines.

By the Statute of the 14th of His Majesty, ch. 83, I conceive the criminal powers of the seigneurs to be abrogated, and their pretensions limited to the civil part only.

A conversion of the Tenure *en fief*, into Free and Common Soccage, would exonerate those estates from the alienation fines payable to the King in the manner I have

mentioned ; but as they have in view to hand down their estates to distant generations of their families, many of them consider the exemption of payment of those fines to be but of little moment ; and therefore, upon that ground, a conversion of the Tenure would be a certain disadvantage, but no certain benefit to them, respecting the parcels of their estates that are already conceded.

It may not have the same effect with respect to the unconceded part of their estates ; 'tis true, the conversion of the Tenure into Free and from Common Soccage, would, by a fit law for that purpose, preclude them their now legal rights to alienation fines and *banalité*, but they might dispose of that part of their estates in fee simple, for such annual quit rent as may be agreed upon, or upon leases for lives, or term of years, perhaps to a greater advantage than those at present granted upon the *roture* Tenure ; and there is great reason to apprehend, that *that* part of their estates would be more rapidly settled and cultivated ; I am therefore of opinion, that in respect of the ungranted parcels of their estates, no material disadvantage, perhaps a much greater benefit would accrue to them, by a conversion of the Tenure into Free and Common Soccage.

9th Question.—“ Would such conversion of the Tenure of the estates or farms of the subfeudatories be beneficial or detrimental to them ; and in what respects as you apprehend, and for what reasons ? ”

The benefits that would result to the *roture* Grantees of the Crown, of which I have spoken in the answer to the 8th question, would equally affect the subfeudatories of the Royal Grantees in fief.

It is however right to observe, that, by the French King's Edicts and Declaration before mentioned, the Royal Grantee *en fief* was bound to concede lands to all applicants for the accustomed rents and dues, and upon his non-compliance, the Governor and Intendant were directed to do so, on the part of the Crown, and for the benefit of the Crown ; this may be considered a great facility for the settlement of the children (who are numerous) of the poor peasantry of this Country, to whom alone, and in this respect only, the conversion of the Tenure may prove detrimental, from their inability to purchase lands, though a wilderness, on account of the exorbitant demands of the proprietor.

10th Question.—“ How may the interests of the Crown and public be affected by such conversion ; stating the points in which it may operate to the loss or emolument of the Royal Revenue ? ”

The interest of the Crown, in relation to the grants made by the French Crown, and there have been very few, and of but small parcels or lots (except that given to Mr. Shoolbred in the District of Gaspé) since the Conquest, is but of small consideration in point of revenue. Alienations of *fiefs* and *seigneuries* in the Country are not frequent, but the Royal *Roture* Grants, in the Town of Quebec, merit some consideration, not in respect to the quantum of the annual rents, but on account of the fine of *lods et ventes*, proceeding from the frequency of alienations ; they are a casualty, and cannot be precisely ascertained, any more than the revenue of *quint*.

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But if the extensive tracts of the ungranted lands of the Crown were divided into distinct seigneuries, and grants made of the lands therein to the peasantry upon the *Roture* Tenure, the revenue deducible to the Crown thereby, might, and would in the course of a series of years, be very productive, and continue to increase. At the same time I am of opinion, that the settlement of the waste lands might, under that Tenure, be checked and greatly impeded, to the detriment of the population, agriculture and commerce of the province, a great part of the benefits of which would center in the Mother Country.

11th Question.—“ By what mode may such conversion of the Tenure be created? If the Prerogative is competent for it, what clause may be necessary in the Royal Patents or Grants, and if a law is wanted to effect the design, what paragraphs ought it to contain for the interest of the proprietors whether *seigneur* or *censitaire*, lord or tenant, or most eligible as well for individuals as the Crown and the public? taking at the same time into consideration the Statute of 12 Car. 2, ch. 24?”

The existing Tenures being a part of the municipal laws of the Country, I think a law will be necessary to declare their conversion.

I shall, with all the expedition that my now pressing avocations in the Council Office Department will admit, set about preparing such clauses as, to me, may appear expedient for the intended law. I submit this Report, as a work done with some degree of precipitation, proceeding from the motive of accelerating the important object under the consideration of this Honorable Board; requesting your indulgence till a future day, to submit the necessary paragraphs to be inserted in the Act.

I have the honor to be with great respect,

Gentlemen,

Your most obedient and most humble Servant,

(Signed) J. WILLIAMS,
Solr. General.

Quebec, 5th Oct. 1790.

ANSWERS BY CHARLES DE LANAUDIÈRE, ESQUIRE,

To some of the Questions proposed by the Honorable Committee of the whole Council.

Answer to the 1st Question.—In *fief* and *seigneurie*, some in fiefs of dignity, with the right of high, middle and inferior justice, and some in fief without the right of justice. Town lots, and some small tracts in the Country, *en censive* or *roture*, so that, generally, there is no other Tenure in Canada than *fief* and *roture*, governed according to the Custom of Paris, and the *Vexin le Français*, surrounded by that of Paris.

2dly.—The fiefs granted by the Company of the Associates of New France, that is to say, before 1663, (at which time that Company surrendered their rights to the King) were principally granted according to the Custom of *Vexin le Français*. Posterior that period, the King granted none but according to the Custom of Paris. All relevant from the Castle of St. Lewis at Quebec, the place designated in the title deeds of concession, for rendering fealty and homage to His Majesty, and other rights and dues according to those Customs. With exception to the house-lots in the Towns of Quebec and Three Rivers, there are only a few Royal grants *en censive* in Canada, except at Detroit, were all the grants are issued by His Majesty in *roture*, as well in the Town as in the Country. The Royal grants of the French Government are therefore principally in fief and seigniori, high, middle and inferior justice.

3rdly.—By the King's Order of the 20th of May 1676, (the first Royal Regulation relating to lands, found enregistered by the Superior Council or Parliament of Quebec) the King's Governor and Intendant ought not to grant lands in *fief* or in *roture*, to the inhabitants of Canada, but upon condition that the grants in fief should be represented to the King within a year from their date, to be confirmed or ratified by His Majesty, upon pain of nullity; and upon condition, that the grantees should cause the lands to be cleared and improved within the subsequent six years.

In 1711, the 6th of July, the King ordered by his *arrêt*, (also enregistered in the Superior Council of Quebec) that the seigniors of the Colony who had no domain cleared, nor inhabitants placed upon their seigniories, should put them into culture within one year, on pain of being reunited to the King's Domain, upon the judgments which the Governor and Intendant should render, at the prosecution of the Attorney General. That the Seigniors should make grants to the inhabitants *à titre de redevance*, that is to say, in *roture* or for *cens et rentes*, without exacting from them any money in the nature of a sale; and in default of doing so, the inhabitants were permitted to make a demand upon the Seignior by *sommation*, and in case of refusal, to address themselves to the Governor and Intendant, upon whom it was incumbent to make the concessions to the inhabitants, subject to the same rights with other lands conceded in the seigniori, payable to His Majesty, and not to the Seignior. Another *arrêt* of His Majesty of the same day, ordering all inhabitants or *censitaires* of the Seigniors to put their lands in cultivation, and to inhabit them within a year and a day, upon pain of being reunited to the Seignior's domain, by judgment of the Intendant.

Another *arrêt* of His Majesty of the 15th March 1732, enregistered at Quebec, mentioning the foregoing *arrêts* of the 6th of July 1711, and restraining the Seigniors and other proprietors from selling any wood lands (*en bois debout*) upon pain of nullity, restitution of the purchase money, and reunion to the domain of His Majesty, or of the Seigniors.

The 17th July 1743, a declaration of His Majesty (enregistered), authorising the Governor and Intendant to make grants of lands, to proceed to reunite to His Majesty's domain the lands granted that should be found liable to be so, for want of culture, and prescribing the mode of proceeding in that respect, attributing to them the cognisance of all matters relative to grants, to the exclusion of all other judges.

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All the titles or brevets of concession of lands contain clauses obligatory of cultivation. It does not appear that either those clauses, or the *arrêts* quoted, were ever rigorously executed, being considered comminatory, rather than penal.

4th & 5th.—The legal and customary charges of grants in fief, are fealty and homage, the *aveu et dénombrement*, or land-roll, the *retrait féodal* and *lignager*, the *quint*, the *relief*, the right of *franc fief*, of *amortissement* and *nouveaux acquêts*; these charges draw after them the fidelity and military service of all possessors of fiefs and *re-re-fiefs*, under whatsoever title, as well personally as by pecuniary contribution; the feudal seizure, forfeiture, or confiscation for services and rights not paid and rendered, or of felony, denial, reproach or scandal of the Seigneur, or of an illegal dismemberment of the fief, and other usual charges, duties and feudal restraints, as the case might require.

The ordinary modern reservations in grants *en fief*, are 1° Fealty and homage; 2° The accustomed rights and dues according to the Custom; 3° The preservation of oak timber fit for the construction of His Majesty's ships; 4° To give the King advice of mines, ores and minerals found; 5° That appeals from the seigniorial courts should be made to the provostship of Quebec; 6° To build a habitation, and to inhabit it (*tenir feu et lieu*) and to cause their subfeudatories to do the same; 7° To clear and cause to be cleared, without delay; 8° To suffer to be made all the roads necessary for public utility; 9° To insert similar clauses in the concessions to the *ter-tenants*, at the usual *cens*, rents and dues per acre of land in front, by forty in depth; 10° To permit the beaches to be free for all fishermen, with exception to such part as the Seigneur should have occasion to use for his own fishery; 11° In case His Majesty should at any future time have occasion for any part of the seignior, whereon to build forts, batteries, places of arms, stores or public works, His Majesty might take the same, as well as the timber necessary for those works, and the fire-wood for the garrison therein, without being held to make any recompence.

The charges of the high justice (*haute justice*) are: 1° By the Ordinance of Rousillon in 1563, art. 27, it is enacted, that the jurisdiction thereof shall be simply under that of the parliament, and the Seigniors *hauts justiciers* condemnable in sixty *livres* (*parisis*) for the erroneous judgments of their judges; 2° Children found exposed within the extent of their jurisdiction, are at the Seigniors' charge, according to different *arrêts*, particularly the regulation of the 30th June 1664; 3° The Seigneur, having the right of holding courts of justice, is obliged to have a Hall (*auditoire*) on the outside of his *Château* to hold his court at, together with prisons on a ground-floor, that the prisoners may be kept in a dry place; 4° The Officers should execute, and rigidly exact the execution of the police, which is a heavy charge, more especially respecting the prosecution of criminals and delinquents, for all species of crimes; 5° The Seigniors having right of justice, are obliged to exercise and render justice to their vassals and subjects at their own expence. that is to say, to pay salaries or wages to their Officers according to the ordinance, upon pain of losing their right of justice.

Fiefs of all sorts owe fealty and homage, or oath of fidelity to the dominant Seigneur, and military service to the King, when His Majesty shall be pleased to assemble

the *ban* and *arrière-ban*, and *sous-arrière* vassals. All estates being originally issued from the Royal domain, have been charged with military service, as an inherent and inseparable condition of the fief and oath of fidelity made to the King by his direct vassal; a reason why all proprietors of fiefs, *rere-fiefs*, in whatsoever degree of partition they are found, are obliged to attend at the *ban* which the King causes to be proclaimed whenever he chuses to assemble the nobles and vassals of his estates. They should assemble when the King directs, in arms, in men, and in the equipage of military service.

The Ordinance of François the First, of the 19th May 1740, distinguishes the services of the vassal by the value of his fief, viz: A fief producing an annual revenue of 5 or 600 lvs., a horse-man armed and mounted; a fief of 3 or 400 lvs., a horse-man with an attendant *arquebusier*; a fief of 2 or 300 lvs., a man on foot, armed; the smallest fief, a man on foot.

That encreased or diminished according to the order and the will of the prince. Louis the 13th, the 30th July 1635, made a regulation containing twenty articles for the *ban* and *arrière-ban*. Louis the 14th made a convention by letters patent of the 11th August 1674, commanding "all Nobles, Barons, Chevaliers, Esquires, Vassals and others holding fiefs and *rere-fiefs*, that all excuses set apart, upon pain of seizure and confiscation of their fiefs, they put themselves in arms, mounted and equipped, according to what they shall be held bound, and to be present on the days and at the place to be fixed."

Ecclesiastics and others exempted from personal service ought to contribute one year's revenue of the fiefs they possess, or such other contribution as His Majesty shall regulate.

The *roture* persons, who are unworthy to carry arms with the nobles, are compellable to contribute to the tax of the *ban* and *arrière-ban* according to the value and revenue of their fiefs; and the *roture* proprietors who serve personally do not enjoy all the grace or favor which nobles do, and ought to contribute more than they do.

The *roture* possessors follow the same principle and order towards their dominant seignior as the fiefs do, because the vassals and subfeudatories have the same obligations for the estates and inheritances which those seigniors have given them, and for which they owe acknowledgements or declarations on the event of each mutation.

Grants *en roture* are made by a title called lease for *cens*, or *cens et rente*, annual, perpetual and portable. This lease, by its nature, obliges fidelity and acknowledgement to the seignior who grants it; also the right of banality, pre-emption conventionally and lineally, the alienation fine of *lods et ventes*, seizin, confiscation, and others, as cases may happen.

Expressions of resentment, contradiction, ingratitude, and scandal, be it by the vassal or subfeudatory, are severely punished by the laws. Besides a confiscation of

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their lands, there are examples of being obliged to appear in court during its sitting, bare-headed, kneeling, fettered, asking pardon of their offended seigniors; even imprisonment, put to the gallies, and other unheard of punishments, at the mercy of the judge.

Vassals, and direct *roture* tenants of the crown, render their duties and pay their rights to His Majesty or his representatives; the *rere-vassals* and *roture* tenants to their particular or dominant Seigniors.

6th & 7th.—Fiefs, as well as *roture* estates, are subject to successive partition, ad infinitum, either in nature, or a proportionate recompense in other estates or in money as well in the direct as collateral line, and each divided part, by operation of law, becomes a distinct and separate fief. It is the same with *roture* lands. The honorary, as well as pecuniary duties and dues are evidently complex, arbitrary, injurious! Can any thing further be necessary to induce a benevolent monarch and nation to destroy them, and to grant in their stead that certain and determinate tenure of King Charles the Second. free and common soccage, which the other subjects of His Majesty King George the Third enjoy, and with so much reason boast of.

(Signed) DE LANAUDIERE.

Quebec, 17th October 1790.

RESOLVES OF THE COUNCIL.

" That the progress of population and settlement in this Province under the Government of France, whatever the cause or causes of it, was slow, the cultivated parts even in the central Districts of Quebec, Three-Rivers and Montreal, being to this day confined to the banks of the St. Lawrence, and the mouths of the navigable streams that fall into it.

" That the Royal patents, grants or concessions of the lands, were either in seigniorly or in *roture*; the latter consisting of town lots, farms or small tracts, and the seigniories larger tracts of various dimensions, many of which are in the rear, or at a few leagues from the convenience of water carriage, *still in forest*.

" That the French King's territorial revenue arose from *quints* or alienation fines of one fifth of the consideration money payable by the purchaser of the lands held *in seigniorly*; and of *lods et ventes* of one twelfth on the sale of lands held *in rotture*; the lands in *rotture* ordinarily paying also *cens et rentes*, the *cens* being one *sol*, or an English half pence, for a front of one acre or 180 French feet, and the rent, another *sol* for every acre of the concession, with a bushel of wheat for every forty acres, or two fat capons of the value of twenty *sols*.

" That the French Crown did not exact its *whole* dues, but remitted a third both of the *quint* and *lods et ventes*.

" That the seigniories were parcelled out into farms, and these conveyed by the seigniors under like charges of *cens et rentes*, and subject to *lods et ventes*, except where a large parcel was granted in *arrière-fief*, on the subsequent transfers whereof a *quint* became due to the seignior, without *cens et rentes*.

" That all the grantees as well of the Crown as of the seigniors, had permanent estates, under an *habendum to them, their heirs and assigns*.

" That according to the Receiver-General's accounts, the territorial revenue for the thirteen years from 1st May 1775 to 1st May 1788 (comprehending arrears), was, in actual receipt at the Treasury, not equal to ten thousand pounds sterling.

" The <i>lods et ventes</i> being but.....	£1351	9	5½
" The <i>quints</i>	3148	1	4½
" The balance of Royal rents from all the King's own seigniories, Sorel excepted.....	4554	7	5¾
	9053	18	3½
" From Sorel.....	216	19	11
	£9270	18	2½

" Which, together with certain duties of customs fixed by Act of Parliament, is by the Royal grace given to the Province towards the support of its Government.

" That in exploring the causes of the tardy progression of the population of the Colony under the Government of France, there seems to be little or no ground for ascribing it to the non-compliance of the seigniors with the conditions for cultivation expressed in their patents or grants; the instances of prosecutions for taking an advantage of those conditions, and reuniting their seigniories to the Royal domain, being rare—and the *seigniorial censitaires* so much more numerous than the King's, that the former, or the inhabitants of the seigniories, at all times did, and do now, constitute the main body of the landholders of the Country.

" That the feudal system, if that was amongst the causes of the non settlement and proportionable debility of the French Colony, operating to a discouragement of the Royal grants, as well as the grants of the subject, there can be no just ground for holding the grantees to a rigorous performance of the conditions of their grants.

" That it was among the main causes of that low condition, in which Canada was found at the British Conquest, is deducible from the probability, that many thousands of families had found their account in emigrating from the exuberant population of the Kingdom of France, if the Government had given their lands *here* upon easy terms, and especially in the fertile regions and moderate climates, on the banks of the rivers and lakes in the South and South West.

" That the discouragement of that system to the settlement of the old French grants, must in future greatly increase; the population of the Province depending now upon the introduction of British subjects, who are known to be all averse to any but

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English Tenures ; and the Canadian seigniors of course be left without a hope of multiplying their *censitaires*, except from the predilection of the descendants of the French planters to usages no longer prompted by the motives of interest, nor recommended by example.

" That the grant of the waste lands of the Crown in free and common soccage, is essential to the growth, strength, defence and safety of the province.

" That unless the old French seigniories can be settled upon terms as advantageous to the husbandman as the lands of the Crown, *their* land market must be at a stand, to the detriment of the proprietors, until the cultivation of the waste lands of the Crown, is damped by their remoteness from all water carriage and the conveniences and benefits of commerce.

" That with the advantage of a vicinity to the navigable waters and a conversion of the Tenures, the seigniories will probably be the first to be fully cultivated, and with an increase of profit to the proprietors, under that ample dominion, which they will then enjoy over their lands, for settling them upon such terms as themselves may concert, to form a populous tenantry, and lay a foundation, *in property*, for that perpetuity of their names and families, which a wise and well balanced Government will be inclined to encourage and support.

" That the King's *roturier* tenants cannot fail to wish for a conversion and discharge from the *cens, rente* and *lods et ventes*, and all the other feudal burdens connected with the Tenure under which they now hold.

" That the motives of interest will naturally make it the desire also of every *seigniorial censitaire* to stand upon the same free foundation of exemption with the other landholders of the colony ; but as this commutation for a discharge of the rents and dues to the landlords must necessarily depend upon private conventions between them and their tenants, and involving considerations *out of the contemplation* of any but the parties reciprocally interested, their cases cannot be the objects of special and particular legislative provision ; perhaps the surest means of securing to the tenant a fair compact, will be to hold the lord to his dues to the Crown, until he has discharged his tenants from all the feudal incumbrances in his own favour.

" That the Prerogative is competent to put the waste lands of the Crown under a Soccage Tenure. But the legislative interposition is necessary to make that Tenure *universal*.

" That if this is to be the work, not of Parliament, but of the Colony Legislature, the Royal instructions given for the greater security of the property of the subject, will require an Act with a probationary or suspending clause, until His Majesty's approbation can be obtained.

" That an absolute and universal commutation of the ancient Tenures, *tho' for a better*, would be a measure of doubtful policy ; but that no substantial objection occurs against giving such individuals that benefit as desire it ; and especially to such

of the seigniors whose tenants or *censitaires* shall conceive it to be for their own, as well as for the interest and benefit of their landlords, and may therefore signify their consent to the change.

" That these ends may be accomplished by a law with clauses of the following tenor or import.

" Be it enacted, etc.

" That if any person or persons holding lands in the Province of Quebec in fief and seigniori immediately of the Crown, and having authority to alienate the same, shall at any time after the commencement of this Act surrender the same into the hands of His Majesty, his heirs or successors, by petition to the Governor or Commander in Chief of the said Province for the time being, setting forth that he, she or they is or are desirous of holding the same in Free and Common Soccage, such Governor or Commander in Chief for the time being shall cause a fresh grant to be made to such person or persons of such lands to be holden in Free and Common Soccage : and every such change of Tenure shall work the absolute extinguishment of all mutation fines, burthens and incumbrances within the tract so surrendered and regranted, to which the same or any part thereof would or might have been liable under the laws and customs concerning lands held in fief and seigniori, or in any other manner than in Free and Common Soccage.

" Provided nevertheless, and be it also enacted by the same authority, that such surrender and regrant shall not avoid or bar any right to any such lands so surrendered, or any interest in the same, to which any other than the person or persons surrendering the same shall have been intitled either in possession, remainder or reversion or otherwise ; but that every such right and title shall be as valid as if such surrender and regrant had never been made.

" And provided also, and be it enacted by the authority aforesaid, as to all such lands as are held of the Crown in *roture* in the said Province, the same shall be deemed and adjudged to be held in Free and Common Soccage, from the time it shall please His Majesty, by any instrument to be issued under the great seal of the said Province, to declare the discharge of all *cens et rentes* and mutation fines due to the Crown thereon.

" And provided also, and be it further enacted, that nothing in this Act contained shall be of force until His Majesty shall have signified his Royal assent to or allowance of the same.

" And to provide for the case when it may happen that the seignior may be desirous of the conversion of the Tenure of the seigniori, and some of the vassals or *censitaires* of it disinclined to the change.

" Be it also enacted by the same authority, that in every such case, the Petition for a surrender as well as the Patent for the regrant thereof, shall express and describe with competent certainty the situation and real contents of the lands and estates of

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all that are so disinclined to a change of Tenure ; and those parcels shall be excepted out of the said regrant, and remain in all respects as if such regrant had never been made ; but that from and after such regrant, one fifth part of all *lods et ventes* or mutation fines, to accrue on the alienation of such excepted parcels, shall be paid by the proprietor or proprietors of the seigniory, for the use of His Majesty, his heirs or successors, and shall and may be secured by proper clauses and provisoes, to be expressed in such Patent of regrant."

DISSENT.

" Mr. Mabane's Reasons of Dissent from the Resolutions and Motion of the Chief Justice adotted by the Committee.

" Because the resolutions moved for do not appear to apply to the object of the reference.

Because it appears that the slow progress of population and settlement under the Government of France, cannot be ascribed to any inherent vice in the several tenures under which lands are held in the Colony ; that it arose from the difficulties which the first settlers found in contending with the fierce and savage nations which surrounded them, from their frequent wars with the British Colonies, and above all from their repeated expeditions in the upper Countries and toward the Ohio, in which the ambitious policy of France had forced them to ingage.

" Because it appears evident from the rapid and almost unexampled progress of population in the province (from its own resources), being from 65,000 souls in the year 1766 to about 120,000 in the year 1784, and who are now chiefly employed in agriculture, that the present tenures are not inimical to population and settlement of the Colony.

" Because the King's rights in the ancient tenures of the Country being expressly reserved in the Act of the 14th of the King, and by His Majesty's gracious bounty appropriated to defray the expences of Civil Government, ought not to be relinquished or sacrificed without an equivalent compensation.

" Because, however unproductive the territorial revenue may have hitherto been from the indulgence or supineness of Government, no judgment can be formed from the sums actually collected, of the revenue that may hereafter arise therefrom, which must increase in proportion to the population and commerce of the province.

" Because the predilection of the native inhabitants of the province to their ancient tenures and laws ought not to be interfered with unless by their own consent, and on the strongest and clearest grounds of public utility.

" Because the alterations proposed by the resolutions or any other conversion of tenure tending to give the Seigneur a more absolute and unconditional possession of the fief would not only be a sacrifice of the King's rights, but would defeat the wise intentions and beneficent effects of the *arrêts* of 1711 and 1732, and the declaration of 1743, by which the Seigneur is obliged to grant to such persons as will apply for them, for the purpose of improvement, lands in concession subject only to the accustomed and stipulated rents and dues, and upon his non compliance the Governor is authorised on the part of the Crown and for the benefit thereof, to the exclusion of the Seigneur for ever, to concede or grant the lands so applied for. By the same laws the Seigniors are forbid under pain of nullity and a reunion to the Crown of the land attempted to be sold to sell any part of their unimproved lands or *en lois debout*, dispositions of law highly favorable to the improvement of the Colony and which secure to the children of the *censitaires* or others the means of settlement and of employing their industry in cultivation on fixed and moderate terms, whereas if the conversion of the seigniories into free and common soccage should take place, the children of the present inhabitants of the Country and all others desirous to settle thereon would be left intirely subject to the arbitrary exactions of the Seigniors to their infinite prejudice and the manifest detriment of the Colony improvement.

" Because it appears that the services or burthens to which the *censitaires* under concessions from Seigniors are subject, are few, clearly understood and ascertained and are by no means onerous or oppressive."

J. WILLIAMS, C. C.

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SEIGNIORIAL TENURE.

REPORT OF THE COMMISSIONERS

Appointed to inquire into the state of the Laws and other circumstances connected with the Seigniorial Tenure, as it obtains in that part of the Province of Canada heretofore Lower-Canada, laid before the Legislative Assembly, by Message from His Excellency the Governor-General, on the 4th October, 1843.

To His Excellency the Right Honorable Sir Charles Bagot, G. C. B., one of Her Majesty's Most Honorable Privy Council, Governor General of British North America, and Captain General and Governor in Chief in and over the Provinces of Canada. Nova Scotia, etc., etc.

MAY IT PLEASE YOUR EXCELLENCY,

We, the Commissioners appointed by Your Excellency, to inquire into the Feudal and Seigniorial Tenure of lands, in that part of the Province of Canada called Lower Canada, in pursuance of an Address of the Honorable the House of Assembly, of the 7th September 1841, have the honor to represent to Your Excellency :

That, in pursuance of the Commission appointing us Joint Commissioners for the purposes therein set forth, and of the instructions accompanying it, we have, with all possible diligence, and to the extent of the powers reposed in us, proceeded in the investigation of the subjects submitted for our inquiry.

Before proceeding to submit to Your Excellency the result of our examination of the important subjects which have engaged our attention, we beg to refer Your Excellency to a preliminary Report, dated the 28th day of September last, in which we had the honor to inform Your Excellency that, owing to the limited powers conferred on us, it was wholly out of our power to report upon many of the subjects pointed out in our Commission, as we possessed no means to compel the attendance of persons, and the productions of papers essentially requisite for enabling us to lay before Your Excellency correct information touching many of the subjects of our investigation, and, in fact, that full and satisfactory information, on some parts of the subject, which the Honorable the House of Assembly had a desire to obtain, as expressed in our Commission.

Since that period, we have been honored by a communication from the Honorable Mr. Secretary Daly, by the command of Your Excellency, informing us that the powers adverted to in our preliminary Report can only be conferred by Parliament, and requiring us to transmit to Your Excellency the result of our investigations under the limited powers conferred on us.

We therefore respectfully beg leave to submit for Your Excellency's consideration, this our Report, containing our views on the momentous subjects proposed for inquiry, and exhibiting the nature and extent of such information on those topics as we have been enabled to procure.

The several matters, submitted for enquiry by our Commission, may, for the sake of perspicuity and more easy elucidation, be arranged under the following heads :

1st.—To make the necessary examination and search into all Public Records and Notarial Acts, from the time of the settlement of the Country, and to establish, for several distinct periods, the true conditions on which grants of land in seigniority have been made by the Crown, and on which lands have been conceded *en arrière-fief ou en censive (rôture)*, and to collect all other requisite information connected with the said subject, and to inquire into the laws which have from time to time governed and now govern the said Tenures.

2nd.—To inquire generally into the present working of the system, by proper investigations into every section of Lower Canada, in a number of seigniories indifferently chosen, for the purpose of ascertaining, as far as possible, the present rents, dues, reservations and charges of any kind.

3rd.—The probable quantity of unconceded seigniorial lands in the Province, and their quality and value, and also the quantity of land conceded but not improved.

The value of seigniorial mills in the Province.

The annual average value of *lods et ventes* paid or accruing thereon.

Lastly.—To consult the seigniors and *censitaires* respectively, upon the most proper and equitable means of effecting by Law a commutation of the seigniorial and feudal Tenures, (such commutation being founded upon a due regard to the rights and interests of all parties), and also of the most proper means of effecting an arbitration in cases where it may be required.

Upon the first subject :—

Having had the advantage of consulting a great number of grants of seigniories in this province, as well from the *Compagnie de la Nouvelle-France*, as from the Crown, from the earliest period down to the Conquest of the Colony, we have found that, although the settlement of Canada under the French Crown was, as to the tenure of land, established upon the feudal system, and, although military service, necessarily for the purposes of defence, did exist in the colony, yet this obligation was not an

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express condition in those grants, nor was the seignior invested with many of the odious and offensive rights and privileges which characterize the feudal lord in Europe.

The colonists have emigrated from that part of the Mother Country, in which the customary law prevailed, where the principle, as to land, of *nulle terre sans seigneur* was recognized, it was natural that a like tenure should be introduced to regulate the rights and obligations of those who should become possessed of the soil, modified, however, by reason of the different circumstances which marked, and the opposite spirit and sentiments which animated, the establishment of the feudal relations in France and in this Country, in the one, the motives being the love of conquest and military glory; in the other, the pacific diffusion of civilization and of the light of the Gospel.

It will thus appear, that many of the earliest grants were made to Religious Bodies, and were avowedly bestowed on them for the purpose of reclaiming the natives from barbarism and converting them to Christianity.

Under this tenure the superior lords and immediate grantees of the Crown, exercised some sovereign powers within the limits of their seigniories.

They held the power of *haute, moyenne et basse justice*, and all the privileges appertaining thereto, which comprised the holding of Courts of Justice, yielding certain emoluments, the right to all confiscated or forfeited estates, the right of all property escheating *pro defectu hæredum*, or from other causes, and to all waifs, estrays and treasure trove.

The exclusive rights of trading with the Indians, and of fishing and hunting within the limits of the fief, was also expressly conferred on the grantee.

In this way, large tracts of land were granted by the Crown, or by the *Compagnie de la Nouvelle-France* while it held this Country *en fief et seigneurie*, upon the condition of the performance of certain services and obligations which we shall now proceed to consider,

With but very few exceptions, these feudal grants were made subject to the provisions of the Custom of Paris, and imposed on the grantee the obligation of performing fealty and homage to the King, or his representative at the Castle of St. Louis, in Quebec,—of making his *aveu et dénombrement*, that is to say, to render a true statement of his title, the extent of his fief, setting forth its dependencies and prerogatives,—whether he had a right to hold Courts of Justice, of the amount of fees incidental to his jurisdiction, of the fines and other rights to which he was entitled; of his manor house, the lands of his domain, the quantity and quality of his arable, meadow, pasture and wood-lands, the revenue of his domain, and the improvements and buildings on his domain, the annual amount of the *cens et rentes* and other dues, with the number and names of his *censitaires* or others subjected to pay rent to him, and the extent of the concessions, the rights and services he owed on account of his fief, whether he had the right of compelling suit at his mill, and a particular designation of the *arrière-fiefs* or subinfeudations; how he became possessed of his fief or

seignior, whether by succession in the direct or collateral line ; by purchase, gift, or otherwise.

The only pecuniary right due under the Custom of Paris, by the vassal to the Crown, is the *quint*, which is the fifth part of the price of sale of the fief or seignior accruing upon every mutation of ownership of the fief, by sale or contract equivalent to sale (but not in case of succession and donation in the direct line), and payable to the Crown by the purchaser on his rendering fealty and homage.

In all cases of collateral inheritance, or of legacy or donation to collateral relations or strangers, the Custom of Paris gave to the Crown one year's revenue (*relief*) of the fief; but this right has not been claimed or enforced in this colony.

It is however to be observed regarding lands governed by the Custom of *Vexin le Français*, under which Custom some few grants were made at a remote period, and one year's gross revenue of the estate was payable instead of the *quint*, and thus under every change of ownership without any exception.

It was competent to the Crown to exercise the right of pre-emption, *retrait*, or *jus retractus*, within forty days after notice of the sale, upon reimbursing to the purchaser the price and all the costs and charges.

These may be considered to be the legal and inherent conditions of the grants of most of the fiefs and seigniories.

But there were some few seigniories, granted by the India Company and the *Compagnie de la Nouvelle-France*, under less onerous conditions than those arising from Custom of Paris, such as the payment of a medal of half an ounce or one ounce of gold, *une maille d'or*, to the Company in lieu of the *quint*. The fief of Beauport was granted on this condition in the year 1675.

In addition to the grants in fief and seignior above mentioned, it may be observed that there are two instances of grants *en franc aleu noble*, made by the French Crown to the Order of the Jesuits, viz : Charlebourg in the District of Quebec, and another in Three-Rivers.

The above obligations may be considered to be inherent in every grant from the Crown, and imposed upon all feudatories under the Custom of Paris.

But, independently of these legal burthens the grants from the Crown appear, for the most part, to have contained the following specific reservations and conditions :

- 1st.—The obligation to do fealty and homage.
- 2nd.—Payment of the usual rights and dues according to the Custom.
- 3rd.—The preservation of all oak timber for the construction of His Majesty's ships.
- 4th.—To make known to the King the discovery of all mines, ores and minerals.

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6th.—That appeals from the seigniorial Courts should be made to the provostship of Quebec.

6th.—To build a habitation on the land and to dwell there, *tenir feu et lieu*, and to cause his *sub-feudataires* and tenants to do the same.

7th.—To clear and settle the land or cause it to be cleared and settled without delay.

8th.—To suffer all roads necessary for public utility to be made.

9th.—To concede to tenants, *à titre de redevances*, lands of not less extent than one arpent in front by thirty or forty in depth, and to insert similar clauses in their concessions to their *sub-feudataires* and tenants.

10th.—To permit the beaches to be free for all fishermen, with exception of such part as the seignior should have occasion to use for his own fishery.

11th.—To suffer the occupation, by the Crown, of all land necessary for the construction of forts, batteries and public works for the use of the King, together with the right of taking all the timber necessary for the construction thereof, and firewood for the garrison, and this without entitling the grantee to any indemnity.

In some of the grants from the Crown of more recent date, that is after the year 1711, it was made a stipulation that the seigniors should concede to their tenants at the accustomed rents and dues, *cens et rentes et redevances accoutumés*.

These conditions, charges and reservations are contained in almost all the grants from the Crown, some of them being essential to the seigniorial Tenure itself, and others rendered expedient for promoting the speedy settlement of the Country and advancing its prosperity.

Apart from those regulated by the Custom of Paris, partially brought into force on the first settlement of the Country, and universally adopted after the surrender by the Company of New France of its rights to the Crown, the other above mentioned conditions and obligations were more clearly defined, reiterated and enforced by the Edicts and Ordinances of the French Kings promulgated from time to time, according to the exigencies of the Colony.

The latter remarks we would particularly apply to all grants and concessions made by the French Crown after the surrender to it, by the Company of New France, of all its rights and territory, and the erection of the *Conseil Supérieur* at Quebec, under the Edict of 1663, which grants were all made according to the Custom of Paris.

The obligations to grant out the land to applicants, in suitable parcels, is a permanent feature of all the grants by the Crown after 1663, and in conjunction with contemporaneous legislative measures hereafter mentioned, evinces how anxiously and perseveringly the French government pursued its policy of rapidly extending the settlement of the Colony, and of diffusing its population over a large surface.

It was incumbent on the seignior to parcel out his fief to settlers, reserving a mere *reditus* or rent; he was bound to commence and effect the settlement of his territory within a certain limited period, in default of which his estate escheated to the Crown. The views and intentions of the French government in this respect may be gathered from two Edicts or Declarations of the King, the first of which is dated in March

Edicts & Ord.,
Vol. 1, p. 24.

Edicts & Ord.,
Vol. 1, p. 71.

1663, immediately after the surrender of the *Compagnie de la Nouvelle-France*, of its rights to the Crown, by which all grants whereon no settlement had been made, were cancelled and revoke; and the second in June 1675, by which all grants of too great an extent of land were revoked, and the intendant Duchesneau was ordered to make new grants of less extent, to such persons as would undertake to settle on them.

Edicts et Ord. Vol. 1,
p. 74.

These Edicts were followed by the declaration of the King of France, dated in April 1676, granting power to Messieurs De Frontenac and Duchesneau, to concede Lands for settlement, upon the express condition that such concessions should be laid before the King for confirmation within a year from their dates, and that the Lands should be in fact settled and brought under cultivation within the period of six years, otherwise the said grants and concessions should be null and void.

Edicts & Ord. Vol.
1, p. 311.

The Arrest of the 6th July 1711, the general instructions given to Governors of the Colony to hasten its settlement, and the more specific and stringent obligation, imposed in subsequent grants of fiefs, to settle and concede hereafter referred to, manifest a continuance of the same policy of the Crown of France.

From these Edicts, Arrests and Ordinances, it appears obvious that, although the granting of Lands by the Crown, under the Feudal and Seigniorial Tenure, may in the first instance be considered to have been attended with the creation or introduction of the rights, immunities and advantages incident to that Tenure as it existed in France, yet, by means of those Legislative measures, made while that system of proprietary relations was developing in the Colony, and of the terms of the Grants themselves, the respective rights and obligations of the Seignior and Vassal underwent much modification, and express enactments defined the exact nature and extent of the rights of the Grantees of the Crown, and the obligations by them assumed upon their investiture with their several possessions.

In truth, the modifications so affected, restored the Tenure, as between the lord and Vassal, to the condition in which appears to have existed at an early age in the parent country, when the protective Colonial policy of the Roman Empire, under nearly similar relations, was adopted by the Frank Conquerors, and incorporated in their system of law. (*)

(*) See Code Théodose, lib. V, tit. 4, Const. 3. Code Justinian, lib. XI, tit. 48. l. 5, 20, 23. tit. 49. l. 1. Savigny on Roman Colonies in his Law Journal, vol. 6, p. 273, 320. Guizot, Histoire de la Civilization en France, vol. III. p. 388 to 402. vol. IV, p. 2. 22. Henrion de Pansey,—Dissertations Féodales, t. cens. § VI. vol. 1. p. 270.

These provisions we shall have occasion to use more at length when we come to treat of that branch of the subject which more particularly concerns the duty of the seignior to concede lands within his fief.

Generally speaking, the conditions contained in the grants from the Crown, whereby the Seigniors are required to concede lands to applicants, are not marked by any essential difference; but there are a few which contain an express declaration that the grantees should concede at the usual and accustomed rates, *cens et rentes et redevances accoutumés*, and in one particular instance, namely, that of the Royal grant to the Seminary of Montreal of the Seigniory of the Lake of Two Mountains, dated 17th October, 1717, the rate at which every concession shall be made is prescribed, viz.—twenty *sols* and a capon for each arpent in front by forty arpents in depth, and six *deniers* (a farthing).

Appendix B. No. 103.

This is the only instance which has come to our knowledge, after a most diligent search, of specification in the Royal grants of the rate of *cens et rentes* at which the seignior shall be bound to concede his lands.

The conditions upon which grants from the Crown were usually made have thus been pointed out, at least as to such as were expressly contained in the Royal grants, or were imposed by the Custom of Paris, under the influence of which those grants were made; but, in order the more justly to appreciate the spirit of the essential terms upon which seigniors were bound to concede their lands to applicants, constituting a prominent object of our inquiry, it becomes necessary to consider somewhat at large, the legal enactments touching this obligation to concede, and the judicial decisions interpretative of them.

It appears to us sufficiently obvious that, between the year 1663, when the French Crown became re-invested with full sovereignty over this country, and the year 1711 when the Edict hereafter mentioned was promulgated, some of the Seigniors had violated the trust reposed in them, by exacting, from the applicants for uncultivated lands, a price, in addition to the usual rent, as consideration for concessions *en roture*; an abuse repugnant to the views and intentions of Government, and calculated to retrace the settlement of the Country.

In our estimation, the Royal grants involved a trust to re-grant such of the land as might be in an uncultivated state, *en bois de bout*, in parcels, to actual settlers, upon certain moderate rents, that is, *à simple titre de redevance*, without its being in the power of the Seignior to demand any money whatever, in the way of capital, for the concession.

This rent, *redevance, cens et rentes*, carried with it the right of *lods et ventes*, being a mutation fine levied by the Seignior upon every sale of the land or transfer of it equivalent to sale, of one-twelfth of the price or consideration of such conveyance.

This alienation fine is incidental to the Seigniorial Tenure of land, and is the legal consequence of a recognitive rent, called *cens*, being stipulated or reserved in the Deed of concession, and was intended to be a source of revenue to the Seignior.

The right of *banalité de moulin*, or paying suit to the Lord's mill, is not incidental to the Seigniorial Tenure under the Custom of Paris, but, in the circumstances of a country under process of colonization by emigrants unable to bear the expense of erecting mills for their own accommodation, there arose a necessity to provide some means to obviate the evils flowing from this cause, by imposing on the Seignior the obligation to build mills, for which they should have the corresponding right of compelling the tenants to carry their grain to be ground there, yielding a certain proportion as toll or multure.

Edicts & Ord. vol. 1, p. 266.

This was effected by the arrêt of 4th June 1686, declaring it to be a right of the Seignior in the realty, and inseparably attached to his fief and seigniority.

It was, however, provided that this right should be forfeited by the Seignior, if a banal mill should not be built within one year after the passing of the said ordinance, and any *censitaire*, or other person, on complying with its requirements, was authorized to exercise this privilege.

Under the Custom of Paris, this right was purely conventional, and could only be claimed by the Seignior under a title.

Although in France the right of *banalité* extended to mills, ovens and other matters, it was only exercised in this colony with respect to mills for grinding corn.

According to the principles of the common law, and the arrêts rendered concerning that matter, this right was restricted to the grinding of the corn consumed within the Seigniority and did not comprise corn ground for exportation, or for use without the limits of the Seigniority.

Edicts & Ord. vol. 2, p. 131.

The arrêt of the 20th June 1667, provided that the toll or *droit de mouture* should be fixed at one-fourteenth of the corn ground at the mills, which was an increase of the rate that obtained under the Custom of Paris.

In all other respects, the law was left as it existed under the jurisdiction of the parliament of Paris.

It was however usual to stipulate the right of *banalité* in deeds of concession; but that stipulation did not affect the arrêt of the 4th of June 1686, in respect of the obligation of the Seignior to build mills, which was frequently enforced.

Upon this point there are many judgments of the intendants vesting the right of *banalité* in *censitaires* when the Seignior had neglected to build the mill, or had failed to keep one already built in repair and fit for the wants and uses of the inhabitants.

Edicts & Ord. vol. 2.

Among others on this subject may be mentioned the ordinance of the 22nd July 1730, the 18th February 1731, the 10th March 1734, the 13th February 1746, the 1st October 1742, and the 12th Fe-

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bruary 1746, and an ordinance passed by the *Conseil Supérieur*, on the 1st July, 1675.

This was the law of the country at the time of the conquest, and which is still in force and effect under the provisions of the 14th George the Third, hereafter cited.

These may be considered to be in truth the only claims of the Seignior upon his tenant, sanctioned merely by the law regulating the tenure in this colony, considered apart from special conditions, charges and reservations provided for in the original grants of the Seignior and in the deeds of concession to the tenant.

The conditions, charges and reservations expressed in the deeds of concession *en roture*, with the exception of the *reditus* or *cens et rentes*, the right of *lods et ventes* and *banalité*, are therefore purely conventional and may be considered obligatory on the tenant, unless they are repugnant to some edict, *arrêt*, or ordinance.

What conditions, charges and reservations may be deemed questionable, on the score of legality, will be a matter of discussion in a subsequent part of this section.

With regard to such conditions and reservations in the deeds of concession to *censitaires*, as secure certain advantages to the public, in accordance with the corresponding clauses in the Royal grants to the Seigniors, no observation appears requisite; they are obviously legitimate and binding on all parties.

By many of the Royal grants of Seigniories, although not in all cases, it is made imperative on the Seigniors to parcel out their fiefs in grants *à titre de redevance*, according to the Custom of Paris.

These *redevances*, in the parts where that custom prevailed, consisted,—

1^o Of the *cens* or *reditus* of one half penny, or one penny, recognitive of the Lord's Seigniorial right, *dominium directum*, and was so essential that, without it, no mutation fines could accrue on changes in the ownership of the land;

2^o Of a moderate rent not essential to the tenure, which was variously payable in money, grain, poultry or other products.

From the period of the earliest concessions, which have come into our hands, made in 1652 by the Jesuits, who held by grants from the Company of New France, down to the year 1663, the date of the surrender by the Company of its rights to the Crown, the rate of *cens et rentes* in the province was nearly uniform.

In the Seigniories where the King was the immediate Seignior, the rates were fixed at one *sol*, *argent tournois*, or one half penny, for every superficial arpent, and a capon or ten pence, at the option of the Seignior, for every arpent in front, and one *sol* of *cens*, equal to about six shillings and four pence half penny, for a frontage of three arpents, by a depth of thirty arpents, making ninety arpents in superficies.

This rule would appear to have been much followed during the aforesaid period, and there is ample evidence to shew that, in the district of Quebec particularly, those were the usual and established terms; for we do not find an instance of excess over this rate, while, in some cases, a lower rent was agreed upon.

After the cession of the Company of New France of its rights to the Crown, a number of grants were made by the Crown, chiefly to persons who had served in the King's army and navy, in some of which the concessions are stated to be made in consideration of the services rendered by the grantees.

In these Seigniories, comprising, with the exception of the Island of Montreal, and one or two others, the most valuable possessions in the district of Montreal, the rents reserved were nearly uniform, being at the rate of about one penny for every superficial arpent, that is to say, from one to two *sols* for every arpent in superficies, and one capon of the value of ten pence, or a half bushel of wheat instead, making, valuing the wheat at that time at two *livres* a bushel, about one penny for every arpent of the concession.

Generally speaking, it may be assumed that, upon a grant of ninety superficial arpents, the rents in the district of Montreal exceeded those in Quebec and Tree Rivers by about one-fifth.

This rate prevailed until about the year 1711, when it is observable that some changes had taken place in the conditions and reservations, rendering them more burthensome to the tenants.

These additional charges consisted of reservations of wood growing on land conceded, and the establishment of *corvées*.

Between the year 1711, the year in which the Royal edict enjoining on the Seigniors to concede *à titre de redevance* was promulgated, and the year 1732, there is no perceptible or material alteration in the rate of *cens et rentes*, even in the concessions made by the proprietors of Seigniories granted by the Crown after the passing of the said edict of the sixth July 1711, the rates of *cens et rentes* then general in the colony being in most instances followed.

See Table in Appendix B. No. 128.

Nor from 1732 to the year 1759, was the rent materially augmented, except in a few cases; and the rate throughout the district of Montreal may be taken on an average to have been about one penny for every superficial arpent.

It is true that, in many Seigniories in the district of Montreal, the rents were rather higher than in the district of Quebec; but the difference was, in fact, not considerable, and may have been agreed to in consideration of the superior quality of the soil and its productions in grain, and may be ascribed partly to the practice of stipulating the payment of the *redevance* in grain, the fluctuating value of which was more lucrative to the Seignior than its being rendered in money or capons at a fixed value.

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The rent in the district of Montreal was generally one *sol* and one quart of wheat for every superficial arpent, or one half bushel of wheat for every twenty superficial arpents, although in the Seigniories belonging to religious bodies capons were generally stipulated instead of the money rent.

The value of such rent may be taken on an average to be about seven shillings and six pence for every ninety arpents, estimating the wheat in all these cases at one shilling and eight pence per bushel, the value set upon it in early judicial decisions.

The appreciation of wheat, however, underwent a change; for, in July 1742, we find that by a judgment rendered against the *censitaires* of Argentenay, they were condemned to pay to the miller of that Seigniorie, for the wheat not ground at the banal mill, at the rate of three *livres*, equal to two shillings and six pence, a bushel.

In some instances, the rent was payable in so many *minots* of wheat for the whole concession, in others a pint or quart or *pot* for each arpent in front by the depth of the land; while it was often agreed that so much grain should be rendered for every superficial arpent.

Notwithstanding these different modes in which the wheat rent was made payable, it is a remarkable fact, that on a just calculation, the result will be found the same, and the highest rate of concession in the district of Montreal, previous to the conquest, will be found not to exceed one penny for every superficial arpent, valuing the wheat at one shilling and eight pence per bushel.

In corroboration of this opinion, we refer to the ordinances of the eighth of May and the sixteenth of November, 1727, the first rendered on the application of the Sieur Levrard, Seignior of Saint Pierre, and the other on the application of the Sieur Rigouville, wherein the usual and accustomed rates of concession in the whole colony are incidentally mentioned.

But whatever inconsiderable diversity may have existed in this particular between the seigniories themselves, for there did exist a trifling variance, yet, with the exception of three or four cases, there was no difference in the rates of concession in any one seigniorie.

The terms, as established by the old concession deeds, continued, without any change whatever, to be the guide and rule on all subsequent grants.

In those three or four excepted seigniories only does there appear, before the year 1759, any departure from the usual rates of concession, and the absence of this change in all the other seigniories must lead to the conviction that, notwithstanding the trifling difference in the rates of concession throughout the seigniories, a uniform rate, founded on the early concessions, was adhered to in each, and attests the vigilance of that branch of the government to which was confided the execution of the laws, and the accomplishment of the Royal intentions regarding the tenures.

The usages in respect of the rates of concession thus determined and established, continued to be the guide in many of the seigniories long after the conquest in 1759.

Soon after the conquest, a relaxation of these rules and a disregard of the legal obligations of the seignior, and in some instances of the *censitaire*, is perceptible, which may in some degree be ascribed to the proclamation of the King in 1763, whereby it was declared that, from thenceforward, the laws of England should be the rule of decision with regard to the civil rights of the inhabitants.

Many of the seigniors, believing that the laws, customs and usages in force in the colony prior to the conquest, had been superseded by the English law, considered themselves no longer bound by the old regulations respecting the tenure of their estates, and the granting of the uncleared lands in the seigniories; so that, in many instances, they departed from the established rules and usages, and exacted higher quit-rents, *cens et rentes*, than would have been permitted by the French government before the conquest.

The *censitaires* themselves, equally anxious to elude the laws binding upon them, and enacted to promote the settlement of the country, forbear to seek grants of wild land from the seigniors, who were disposed to exact more onerous terms than of old; and, in defiance of the laws which expressly prohibited the subdivision of farms beyond certain limits and dimensions, parcelled out their possessions into portions of ten, twenty or thirty arpents, whereby the population, instead of diffusing itself in the extension of the settlements, became crowded within a smaller space, contrary to the wise policy of the ancient government.

These abuses, which under the French government would have been immediately checked by the interposition of the intendant's authority, were, amid the confusion attendant on the establishment of a new order of things, and the changes supposed to have been introduced by the promulgation of a new system of laws, suffered to prevail; and, although, by the Act of 1774, their ancient laws, usages and customs were restored and secured to the inhabitants, becoming thenceforth the settled rules of decision in all civil matters, the wise and beneficent intentions of the old government in respect of the tenure of lands (a point of the greatest importance to the welfare and settlement of a country) were wholly frustrated, and the seigniors for ever afterwards continued at liberty to exact rents and to impose conditions at their absolute discretion.

With the limited information we have acquired, it would be difficult to point out, with much accuracy, the various epochs at which fresh progress was made in infringement of the laws in this respect.

Having in our possession comparatively few concession deeds, no general and positive rule can be laid down applicable to the whole Province; but it is sufficiently manifest, from those deeds which we have had an opportunity of consulting, that a change took place almost immediately after the conquest in some seigniories, and that in others a change occurred about the year 1785, and again in 1800.

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From the last mentioned period down to the present time, the rates of concession have been progressively augmented in many parts, until, from about one penny per

superficial arpent, which was the original rate, the *cens et rentes* See Tables, Appendix B, N^o 128, have swollen to three pence, and from that rate to six pence, and even eight pence, per superficial arpent.

So, also, by means of clauses and stipulations inserted in the deeds of concession, to which nothing parallel can be found before the conquest, the seigniors, since that event, have diminished the value and extent of the rights and estates of the *censitaires* in the lands granted to them, imposing many burthensome conditions, reserving wood and timber for private uses, as well as all mill-sites, not merely for the lawful exercise of the *banalité*, but for the establishment of all kinds of mills and manufactories.

In France, and particularly under the Custom of Paris, the *cens* and other annual rents and dues were regulated by no express law, but there was a usage as to the amount of the *cens* strictly so called ; (*) and indeed, from the earliest times, fixedness of the rate of this rent (*fixité*) would appear to have been a ruling principle (§).

The seignior was at liberty to stipulate such rents and dues on the alienation of his land as he thought proper ; but, although the stipulated additional rents and dues were not contrary to any law, and were clothed with the same lien or privilege as attached to the *cens*, they were not recognized as being founded upon the common law, nor considered essential to the seigniorial tenure, but were the creatures of positive contract and title.

Thus, although these charges were generally called seigniorial rights, and as such were secured by the usual privileges in favour of the seignior for their recovery, yet the law established certain important distinctions between them.

These rights were therefore divided by feudists into two classes :—

1st.—The natural or ordinary right, which the particular custom regulated in the absence of express stipulation.

2d.—Extraordinary rights, foreign to the common law, which were the subject matter of especial covenant.

In the first category were the *cens*, the essential characteristic mark of the direct seignior, established by the common law, and which the local custom indicated as the natural charge upon the land ; and the *lods et ventes* or mutation fines, and a certain pecuniary penalty due by the tenant neglecting to exhibit his title of acquisition to the seignior.

The other class consisted of numerous burthens and services, such as the *gros cens*, or additional rent, the right of *retractus*, pre-emption ; neither emanating from the common law, but purely conventional.

(*) See Henrion de Pansey—Dissertationes Féodales—Cens., § IX, vol. 1, p. 275-G.

(§) See note antè, page 3.

These rights, arising from contract only, became extinguished upon the judicial sale of the land, unless they were preserved by a legal demand on the seignior's part.

They were considered in the light of extraordinary incumbrances upon the land, and, as they were not classed among the charges legally due, a vendor was bound to declare them in order to absolve himself from the obligation of warranty with regard to them, which otherwise he would have incurred.

This was the state of the law under the influence of the Custom of Paris when it came to prevail generally in this colony under the edict of 1663.

To treat properly the subject of the peculiar regulations which exist in this colony with regard to the seigniorial tenure, it is necessary to revert to the earliest settlement of the country by the Company of New-France.

By a charter granted to this Company, in 1627, by Louis XIII, the most extensive powers for the purpose of effecting a settlement of the country were given, and the Company were authorized to make grants of land to such persons, in such quantities and upon such terms, as they might think proper for attaining that impartial object.

This Company having introduced the tenure which prevailed in Paris, where it was formed, granted lands to be held *en fief et seigneurie*, on terms and conditions calculated to promote settlements.

The grants were made, for the most part, under the Custom of Paris, although some few were made under the Custom of *le Vexin Français*; and after the surrender to the French Crown by the Company of New France, in 1663, of all its rights and territories, all grants of land in fief and seigniori were made subject to the provisions of the Custom of Paris.

In 1663, the *Conseil Supérieur* was erected by an Edict of the French King, and it was therein declared that the colony of New France should be governed by the law and custom of the Parliament of Paris; and powers were granted to the said *Conseil* to make laws for the good government of the colony.

In looking to the original grant to the Company of New France, and the Act of Cession of its rights to the Crown, it is apparent that the great object of the French Government was the settlement of the country.

The Company of New France, with limited means, although possessed of indefinite powers, had made little progress towards that object, at the time of the surrender of its rights.

Almost all their grants were merely nominal, no actual settlement having been made.

The first act of the Crown, on obtaining the cession of the colony, was to revoke all grants in that predicament.

The Edict promulgated by the King on the 21st of March 1663, declared that all grants should be null and void on which no settlement should be made six months after

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the passing thereof, and granted full power to the governor and intendant of the colony to distribute anew the various seigniories, on condition, however, of actual settlement.

An *Arrêt* of the 4th June 1672, reduced the concessions already made in the colony to one half their extent, and the lands were distributed again among such persons as would undertake settlements within the period of four years, and in default thereof the said concessions were to be reunited to the domain, ordering at the same time the Intendant Talon to make an exact return to His Majesty of all concessions made in the colony, of their quality and extent, in the number of arpents, or other standard measurement used in the colony, the number of inhabitants, &c., &c.

This *arrêt* was followed by another of similar import, dated 4th June 1675; and by the *arrêt* of the 15th April 1676, full power and authority were given to the governor and intendant of the Colony to make all concessions, upon the condition however of having the said concessions ratified.

To this may be added, on the same subject, the *arrêt* of the 9th of May 1679, again diminishing by one fourth the extent of the concessions already made upon which no settlement had been made.

These *Arrêts* and *Edicts* are cited more for the purpose of shewing the intentions of the King in making the various grants and concessions, than as establishing any law on the subject; but they are important in their bearing on the *Edicts* promulgated subsequently to this period by His Most Christian Majesty, in relation to the tenure and the conditions on which grants of land in seigniories should be made.

Aware of the prevalent belief that there existed an *Edict* fixing the rate of concession generally at a certain specific amount, we conceived it our duty to make strict search among the Archives of the Province and the Records of the Provincial Tribunals under the French Government, and a thorough investigation of the whole matter enables us to state our firm conviction that no Royal *Edict*, or other legislative measure, creating an obligation to concede lands *en roture* throughout the colony at any given rate, either in money, produce or commodities, was ever issued or enacted.

We have, however, arrived at the conclusion, from consideration of the *Edicts*, declarations and decisions hereafter referred to, that something nearly equivalent or approaching to such a regulation became established before the Conquest.

The before mentioned *Edict* of the 6th July 1711, is the first legislative Act of the King, made to regulate the concession of lands *en censive*, and to fix the conditions under which it should be imperative on the seignior to concede them.

By this *Edict* it was declared that there were many seigniories in New France in which no settlement had been made, and in which even the original grantees had made no progress towards the cultivation and settlement of the property, and that many seigniors had, under various pretexts, refused to concede lands to persons offering to perform acts of settlement, with the intention of making sales of the said land, at the same time that they imposed on the grantees the same dues (*les mêmes droits de rede-*

vance) as were imposed usually in concessions; which was wholly contrary to the intentions of His Majesty and the very conditions of the original grants to the seigniors themselves, by which they were permitted only to make concessions in consideration of rents (*à titre de redevance*); and with the view of avoiding such abuses for the future, it was ordered that all seigniors, within a year after the promulgation of the said Edict, should make settlements and concessions in the said seigniories, in default of which they should be reunited to the Domain of the Crown, and that all seignior, having lands to concede within their seigniories, should be bound to concede to all persons demanding concessions *à titre de redevance*, on payment of a rent only, and without exacting any money for the same; and that on refusal of the seigniors so to concede, it should be in the power of the Intendant, on application for that purpose, to make concessions, on the same conditions as were imposed on the other concessions in the seigniories (*aux mêmes droits imposés sur les autres terres concédées dans les dites seigneuries*), which rights and dues should be paid into the hands of the Receiver General of His Majesty's Domain, without its being in the power of the seignior to demand any dues whatever from them.

This Edict was followed by another of the same date, declaring all concessions made to *censitaires*, on which no actual settlement had been made, to be null and void, and that, on the certificate of the curate and captain of the *côte*, to that effect, they should be deprived of the concessions.

The intentions of His Most Christian Majesty, manifested by the said Edict of 6th July, was to compel the grantees of the Crown to concede lands on their seigniories at a mere rent, without exacting any *bonus* or capital, and that the concessions should be made at the rates already fixed in the seigniories by former concessions.

Upon this point, no reasonable doubt can be entertained, as full power was granted to the Intendant to make the concessions at the rate already established, in the event of the refusal on the part of the seignior to make them.

This Edict would seem to have determined the principle on which concessions should be made, and, although no rate is in terms mentioned in it, the previous concessions made in the seigniorie were declared to be the standard for the future.

See Table in Appendix B. No. 128. That the standard was nearly uniform throughout the colony, will appear by reference to the concessions made by the Seigniors up to the promulgation of the edict, the rate in no instance exceeding two *sol's* per superficial arpent, and in a great many being only one *sol*.

In fact, upon the subject of the rate of concession, no difficulty appears to have existed in the colony, as a usual and accustomed rate was by universal consent acknowledged to be settled; but the great grantees of the Crown endeavoured to violate the conditions of those grants, and, by exacting sums of money for making a concession to effect sales of their land, contrary to the known laws of the tenure and the very conditions of the grants themselves.

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This abusive practice of the Seigniors was, in truth, the origin of the edict of 1711.

In addition to the evidence to be drawn from the edict, and the very motives of its promulgation, there is ample evidence to be found in the decisions of the intendants, both before and after the passing of the edict, that upon the subject of rates no difference of opinion existed.

The first judgment on record on this subject, is a judgment of the intendant Mr. Raudot, of the 15th June, 1708, by which it was ordered that the seignior of Bécancour should concede certain lands to an inhabitant of the name of Perrault, upon the same clauses and conditions, *aux mêmes clauses et conditions*, as were contained in the deeds of other *censitaires*, and that in default thereof the judgment should be held as his title.

See Cugnet—Extracts of the edicts, &c., p. 26.

This judgment was followed, after the edict of 6th July 1711, by several judgments rendered by the intendant on the same subject, namely, the judgments of the 15th February 1716, the 28th June 1721, the 20th September 1721, the 16th October 1721, the 21st February 1731, the 20th July 1733, the 23rd January 1738, and the 23rd February 1748.

Edicts and Ord. vol. 2, p. 45, 50, 51, 71, 75, 82.

To these may be added, judgment of the intendant Begon, of the 11th March 1723, rendered against the Seignior of St. Pierre, and an ordinance of the intendant Dupuy, in the case of the same Seignior (Levrard) rendered on the 8th May 1727.

Edicts and Ord. vol. 2, p. 268, 272.

The whole of these judgments were founded on the edicts of the 6th July 1711, and most clearly demonstrated not only that an accustomed rate of concession was established by universal practice in the colony, but that the Seigniors were bound to concede at that accustomed rate to all persons soliciting concessions: the power to make these concessions, in the event of refusal on the part of the Seignior, being vested in the intendant.

That this authority was acted upon by the intendants, is manifest from the *arrêt* of the 29th of May 1713, only two years after the passing of the edict of 1711, by which the Seignior Duchesnay was prohibited from making any concessions, in the *bourg du Fargy de Beauport*, at a higher rate than that of one *sol* for each arpent, and a capon, to which *redevance* all concessions made by his predecessor at a higher rate in the Seignior were reduced.

Edicts and Ord. vol. 2, p. 33.

This *arrêt* may be adduced as evidence of the operation of the edict of 1711, and of its prohibitory character, with reference to the rates of concession in the Seigniories.

Edicts and Ord. vol. 1, p. 486.

In confirmation of this law of 1711, the *arrêt* of the Council of State of the 15th March 1732, was passed.

This *arrêt* is important, not only on account of the positive nature of its enactments, but as explaining and confirming the dispositions of the edicts of 1711.

By this *arrêt*, after recital of the edict of 1711, whereby the King had declared that, in some of the Seigniories which had been conceded by him, no settlement or habitations had been made, and that if, at the expiration of one year from the date of the promulgation of that edict, they continued in that unsettled state, they should be re-united to the domain of the Crown, and that the said Seigniors had been ordered to concede upon a mere rent (*à titre de redevance*) and without demanding any sum of money whatever for the concession, and had granted permission to the inhabitants, in case of refusal on the part of the Seignior to concede, to apply to the governor, lieutenant-governor and intendant, to obtain the said concessions, upon the terms and conditions, (*aux mêmes droits imposés sur les autres terres concédées*) and that the dues accruing therefrom should be paid into the hands of the receiver general of the King's domain, to the loss of the Seignior in that respect.

And the recital of another edict of the same date, whereby the King had declared that the inhabitants, who had obtained concessions, should be held to occupy and inhabit the same (*y tenir feu et lieu*), and in default thereof, that the lands should be re-united to the domain of the Seignior upon the judgment of the intendants, His Majesty being informed that notwithstanding these edicts, the Seigniors had reserved in their domain large tracts of country which they sold *en bois debout* in lieu of conceding only upon a *reditus* or rent (*au lieu de les concéder simplement à titre de redevance*), and that the inhabitants who had so obtained sales of the wild lands, had again sold them to others, thereby making a trafic of the land, contrary to the well being of the colony, and it being necessary to apply a remedy to abuses so prejudicial in their effects, did order that, within ten years after the publication of that *arrêt*, all proprietors of land held *en seigneurie*, and not yet cleared, should be bound to make settlements and place inhabitants there to reside, and that, if after the expiration of the said term, such had not been done, that the said lands should be re-united to the domain in virtue of the said *arrêt*, and without any further order. And His Majesty did also most expressly prohibit and forbid any Seigniors or other proprietors to sell any wild land whatever, *de ne vendre aucune terre en bois debout*, on pain of nullity of the contract, and the restitution of the price thereof, and that the said lands so sold should be re-united to the domain of the Crown; and further ordained expressly that the said two edicts of 1711 should be carried into effect according to their tenor.

This *arrêt* therefore is a full confirmation of the edicts of 1711, being even more stringent in its dispositions; and if anything were wanting to ascertain the principle upon which concessions of land *en censive* were required to be made, the deficiencies may be supplied from this source.

So far from the estate of the Seignior in the fief granted to him by the Crown being absolute, free and unconditional, for the sole purpose of his own profit, it may be said that the land was held incumbered with a species of trust, to promote the speedy settlement of the property. — He was bound to concede upon a mere *reditus*, or

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rent, without its being in his power to extend the obligation of the *censitaire* beyond that rent.

In the event of refusal, the power to concede upon the rate imposed in the other concessions was given to the governor, lieutenant-governor and intendant, and as a penalty for not conceding, he forfeited his land to the Crown.

To hold that these were not the true conditions upon which lands *en censive* were required to be made, would be to convert an estate subject to a trust into an absolute freehold; to deny that the Seigneur was bound to concede at the usual and accustomed rates established in his Seignior by the old concessions prior to 6th July 1711, would be to frustrate the very ends for which the edicts and *arrêts* had been made.

We can recognize no difference between demanding, for the concession, a sum of money in the nature of a price, and the stipulation of that price in the shape of rent chargeable on the land; in truth, they are identical in their results.

In both instances there would be a violation by the Seigneur of the original conditions of his grant, because it would tend to impose more onerous charges than the law of the tenure allowed.

In looking to the latter part of the edict of 1711 (which may be said to remove all doubts concerning the rate of concession of land in the same Seigniories) we find that it enables any inhabitant, upon refusal of a Seigneur to concede lands, to apply to the intendant, who was specially ordered to make the grant upon the same terms and conditions as were imposed upon the other lands in the same Seignior, (*aux mêmes droits imposés sur les autres terres de la seigneurie*), thereby most plainly shewing that the rate of concession first established in a Seignior was to be a guide for all future concessions in the same Seignior, from which no Seigneur could depart without a violation of the law.

It may be contended that the edict applies only to cases wherein the seignior refuses absolutely to concede his lands for an annual rent, whereupon the dues would become payable to the Crown; and that it cannot be extended to the case where the seignior is willing to grant *à titre de redevance*, although at an increased rate.

The answer to this objection, we conceive, is obvious.

The end which the edict had in view, in prohibiting the seignior from selling his wood-lands, and exacting sums of money in the nature of prices of sales, was the rapid settlement of the country, by placing within the reach of every man the means of obtaining land, subject only to a small annual rent; and it may be asked whether a departure by the seignior from the established rule of concession in his seignior, by which it would be in his power to raise his dues without limit, would not defeat the object of the legislature; he might, indeed, style his grant a concession *à titre de redevance*, but it would differ from a contract of sale only in name.

It therefore follows, that a willingness on the part of the seignior to concede his lands, but upon terms and conditions more onerous than those already established in his seignior, would have been considered as an absolute refusal to grant, which would have justified any applicant, under the law of 1711, in demanding, from the intendant, a concession of land upon payment of the same dues as were imposed on the other lands of the seignior.

In confirmation of this view of the subject, it may be again stated that, if it were in the power of the seignior to raise his dues, his situation would be better than that of the sovereign, who was bound by the edict to exact no higher dues than those already established, in the seignior, in those cases where the revenues escheated to the Crown on the refusal of the seignior to concede.

In conclusion, it is only necessary to advert to the wording of the edict (*aux mêmes droits imposés sur les autres terres dans les dites seigneuries*;) to be convinced that it sufficiently implies an uniform rate of concession in the same seignior, no difference of rates being mentioned by which the grants made by the intendant for the benefit of the Crown should be distinguished.

If any inhabitant had, at the time this edict was enacted, a right to obtain a grant of land upon the same terms as any *censitaire* within the same seignior, it is the undoubted privilege of any of the Queen's subjects to obtain the same grant at this day, the edict of 1711 being still the law of the land.

But controvertible evidence of the meaning and operation of this edict of 1711, and of the *arrêt* of 1732, and of the intentions of His Most Christian Majesty in promulgating them, may be gathered from the declaration issued by the King (Louis the XV) on the 17th July, 1743, concerning concessions in the colonies.

Edicts and Ord.
vol. 1, p. 533.

This declaration states that authority had been granted to the governors and intendants of the colonies in America to make grants of land, for the purpose of promoting the settlement of the colonies, and to re-unite them to the domain of the Crown in default of settlement, and that full judicial power had been given to them, to the exclusion of the ordinary judges of the land, to determine upon all contestations which might arise among grantees and their assigns, as well in relation to the validity and the execution of concessions, as to their position, extent and limits; but that no certain rules had been established as to the form of proceeding, either with respect to the re-uniting to the domain, for want of settlement, or to the course of proceeding on the contestations arising in relation thereto, nor as to the course to be pursued in appeals from the ordinances and judgments of the governors and intendants upon these points, so that different rules and usages obtained in different colonies and even in the same colony.

That for the purpose of removing all doubts and uncertainty upon subjects so interesting, and to secure the repose and tranquillity of families, he had determined to make certain fixed and invariable rules to guide in all the colonies, as well as to the forms

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of proceeding to effect a re-union to the domain of concessions when the case might require it, as to all discussions arising thereupon, and the course of bringing appeals from the judgments therein rendered.

In the first article of this declaration it is directed, that the governors, lieutenant-governor, and intendants of the colonies, or the officers representing them in their absence, should continue to make concessions to the inhabitants who might be entitled to obtain them for settlement, and should grant titles to them on the ordinary and accustomed clauses and conditions (*clauses et conditions ordinaires et accoutumées.*)

This article of the declaration is cited as bearing more particularly on the subject of concession, and as shewing that an ordinary and accustomed rent was then (1743) recognized and acted upon.

It is true that the whole of the declaration may be viewed more as an *arrêt de règlement* in reference to the course of proceeding before the governors and intendants and in appeals therefrom, than as a declaration in which any legal enactment in respect of the tenure itself is set forth; yet the terms of the first article cited above, and the express authority and order given to the governors and intendants to make concessions upon the accustomed and ordinary rent, in applications made to them founded on a refusal of the seignior to concede, in our humble opinion, remove all doubts upon the subject, and characterize the *arrêt* of 1732 as prohibitory in their operations, and fixing unalterably the reciprocal obligations and rights of the seignior and *censitaire*.

We may therefore be permitted to inquire what law it was the intention of the Crown to introduce by the edict of 1663, with reference to the tenure of land, (*les lois et ordonnances de notre royaume et y procéder autant qu'il se pourra en la forme et manière qui se pratique dans les ressorts de notre cour du parlement de Paris;*) was it the common rule under the parliament of Paris in relation to the tenure (*en censive*) and the usual and ordinary quit-rent, *cens*, or was it the intention to give unlimited power, and to permit the seignior to impose such charges on the land upon its alienation, as he thought proper?

Upon this point, we think that no reasonable doubt can be entertained.

The rule followed by the Crown in its own *censives*, and the rates of concession down to the conquest of this country, afford the most conclusive proof of the intention in this respect; for whatever latitude may have existed, under the Custom of Paris, in the imposition of seigniorial charges and dues, beyond those incidental to the tenure under the common law rule, (*) it is clear that under the operation of the edict of 1711, and the *arrêt* of 1732, certain fixed and unalterable rules were established in the colony to regulate the concession of land, from which the seignior could not depart.

(*) See Henrion de Pansey—Dissertations Féodales, v. Cens. ubi suprâ.

The fixedness of the rate of rent, as a ruling principle, is manifested in a striking manner by the remarkable fact, that it required the express authority of the King to enable the seigniors of Montreal to raise the established rent under peculiar circumstances.

See Appendix B.
No. 103.

These rules were manifestly imposed from the necessity of the case, for if the jurisprudence of the parliament of Paris in this respect had been allowed to become the law of the colony, the intention of the Crown in the settlement of the country would have been altogether frustrated.

In expressing our opinion on this branch of the subject, which we feel to be one of a delicate nature, and involving interests of great magnitude, we have calmly and dispassionately considered the matter as a purely legal question, irrespectively of cases of individual hardships, or of what may be deemed vested rights founded on long and uninterrupted possession, or the obligation of contracts.

The Courts of Justice, in later days, swayed, no doubt, by these considerations, have, for the most part, disallowed the principle of a usual and accustomed rate.

See Appendix B,
Nos. 111, 112, 114,
115, 116.

By their judgments they have maintained that the seignior had the right of conceding upon such terms and for such rents as he might agree upon with his tenants, and have refused to give relief to the *censitaires* from such conventional burthens.

They have departed not only from the strict letter of the law regulating the tenure under the French Government, but from the true spirit and policy of that law, and the conditions of the original grants.

And however unfounded the pretension of the seignior might have been considered in the Court of the intendant, he has in the Courts of a later erection invariably been successful in all his contests with his tenants, with the exception of a single instance, which occurred in the Court of King's Bench at Montreal in 1828.

See Appendix B,
No. 113.

Being of opinion that the Edict of 1711 is still the law of the land, it remains to be inquired whether there resides in any tribunal the authority competent to enforce it.

By the Act of 1774, commonly called the Quebec Act, the inhabitants of this colony were confirmed in all the laws, customs and usages relative to their civil rights; and it was enacted that in all matters of controversy relative to property and civil rights, resort should be had to the laws of Canada, as the rule for the decision of the same, and that all causes thereafter instituted in any Courts of Justice to be appointed within and for the said Province by His Majesty, his heirs and successors, should, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they should be varied or altered by any Ordinances that should from time to time be passed in the Province by the governor, lieutenant-governor, or commander in chief for the time being, by and with the advice and consent of the Legislative Council of the same to be appointed in manner thereafter mentioned.

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This Act therefore guaranteed to the Canadians their civil rights, and, of necessity, the tenure and the laws regulating the same were fully and unreservedly maintained.

That such was the intention of His Majesty's government, is apparent on reference to the instructions conveyed to general Carleton, transmitted to him immediately after the passing of the act above quoted.

The article 38th of the instructions is in the following terms: "By our commission to you under our great seal of Great Britain, you are authorized and empowered, with the advice and consent of our Council, to settle and agree with the inhabitants of our said Province of Quebec for such lands, tenements and hereditaments as are now or shall hereafter be in our power to dispose of.

"It is, therefore, our will and pleasure, that all lands which are now or hereafter may be subject to our disposal, be granted in fief or seignior, in like manner as was practised antecedent to the conquest of the said Province, omitting however, in any grant that shall be passed of such lands, the reservation of any judicial powers or privileges whatsoever.

"And it is our further will and pleasure that all grants in fief or seignior, to be passed by you as aforesaid, be made subject to our Royal ratification or disallowance, and a due registry thereof within a limited time, in like manner as was practised in regard to grants and concessions held in fief and seignior under the French government."

From these passages it appears unquestionably that the laws in force at the time of the conquest in 1759 were preserved in all their force; and that, in relation to the tenures of land in the Province, the law of 1711, and the custom which prevailed in the colony prior to the conquest, respecting grants *en censive*, remained to all intents and purposes the law of the land.

We proceed now to consider whether the judicial authority, which was vested by the King of France in the intendants to enforce the Edict of 1711, can be exercised by any tribunal now in existence in this Province.

Under the Ordinance creating the Court of Common Pleas in this Province, passed in the 17th year of His Majesty George the Third, we think the judicial power of the intendant was transferred to that Court.

It was the Court erected under that Act to decide controversies respecting the property and civil rights of the colonists; and, although the legislative powers vested in the intendant could not, consistently with the principles of the new government, be delegated to that Court, yet all the jurisdiction of that officer, exercisable for the protection of the civil rights of the subject, was transferred to the new tribunal; and by the 34th George 3rd, establishing the Court of King's Bench in this Province, and repealing the 17th George 3rd, the judicial powers of the intendant are expressly given to that Court, to be exercised in the most full and ample manner.

See Appendix B, No. 102.

Under these circumstances, therefore, we consider that the Court of King's Bench now established has full power and authority to enforce the Edicts of 1711, with the Arrêt of 1722, and to carry out the jurisprudence established before the conquest.

Having reviewed the laws of the seigniorial tenure as they existed under the French government, and as they continue to exist in the Province of Lower Canada after the conquest, it becomes our duty to advert to the alterations which these laws have undergone by legislative enactments.

The first provision affecting the law of tenures in this Province, is to be found in the Imperial Statute of 3rd George IV, chapter 119, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces."

The chief part of this law concerns the revenue, but the thirty-first and thirty-second sections affect the seigniorial tenure of land.

The defects of this Act were however soon perceived, for, as it was limited in its provisions to commutations between the Crown and the seignior, or between the Crown and its grantees *en roture*, the *censitaires* in many of the seigniories were left wholly unprotected, and were doomed to live under a tenure which they might consider of a most burthensome and odious character, while the Act gave to the seigniors an absolute and unconditional property in the ungranted portions of their fiefs, in direct violation of the wise and beneficent intentions of the Edicts of 1711, and the Arrêt of 1732, and the Declaration of 1743, by which, as we have already shown, the seigniors are bound to grant lands to such persons as apply for them, subject only to the accustomed rents and dues.

To remedy the defects of this Act, and to provide for a commutation between the seignior and *censitaire*, another Act was passed by the Imperial Parliament, in the sixth year of His late Majesty George the Fourth, intituled, "An Act to provide for the extinction of feudal and seigniorial rights and burthens on land held *à titre de fief et à titre de cens*, in the Province of Lower Canada, and for the gradual conversion of those tenures into the tenure of free and common soccage, and for other purposes relating to the said Province."

Under this act, the most objectionable part of the act 3 George IV, whereby the seignior is clothed with an absolute and uncontrolled property in the wild lands of his seignior, not only stands unrepealed, but is confirmed.

On the legitimacy of these enactments, it is not our province to comment; but we are gratified to find the views we entertain, regarding the vesting in the seigniors of an absolute freehold estate in those unconceded lands, are supported by the authority of an address of the honorable House of Assembly of Lower Canada to His Excellency the Governor in Chief, presented in the session of 1824.

The concluding part of that address is in the following terms:—"That the unconceded lands held by the seigniors *en fief* in this Province are held by them subject to be regranted to any applicant engaging to settle thereon, subject only to the accustomed dues and conditions, and that it is on grants of those lands that the cultivators of the soil in this Province depend for the settlement of their children, the said cultivators and their children having a legal right to obtain such grants.

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"That any arrangement made under the said act 3 George IV, between His Majesty and the holders of such waste lands in fief and seignior, would be to deprive a third party of an equal right which is beneficial to the individual, advantageous to the community, and guaranteed by the capitulation of the colony, and by the act of the fourteenth year of the reign of His late Majesty.

"That this House conceiving that it is a duty incumbent on it, in so far as may depend upon this House, to protect every right of its constituents, humbly represent the matter to your Excellency, and pray that, in any conditions which may be imposed on any seignior surrendering lands under the said act, to obtain a grant thereof in free and common soccage, such conditions may be imposed on such seignior, in conformity to the said act, as may preserve entire the right of the subject to a grant of the said waste lands, at the usual *redemptions* or dues and conditions."

We come now to the second branch of the subject of our investigation, namely, as to the present working of the feudal and seigniorial tenure in this Province.

In stating our views on this branch of the enquiry, we must necessarily proceed on the assumption that the exorbitant pretensions of the seigniors, at the present day, are just and founded in law as now administered.

Taking this for granted, it cannot be denied that this system of tenure is in many respects vicious and is productive of extreme injury.

The dues and services exacted, without considering the more common abuses, are oppressive to the land owner, not only from their variety, but from their nature.

The pecuniary dues of the *censitaire* are, in many instances, more than he can liquidate; while the reservations to which he was forced to submit by his lord, deprive him of the free use of his land as proprietor. He is, in many instances, subjected to fines for neglect of certain services, in some cases of mere form, by which his condition is fettered.

Instead of being able to add to his resources by developing such advantages as his soil or its natural position may present in the free exercise of mechanical skill, he is bound to the land for the mere purpose of cultivation, and is dependent on its return for a precarious subsistence.

Thus, if he be possessed of a mill-site, or a spot of land favorable to the construction and operation of machinery, he is prohibited from using it. The reservations contained in his deed of concession deprive him of the advantage of it, except at a heavy cost. If his crop fail him, he may be kept in a state of indigence, although able and willing to better his condition by mechanical pursuits. He is thus kept in a perpetual state of feebleness and dependence. He can never escape from the tie that binds him and his progeny forever to the soil—as a cultivator he is born, as a cultivator he is doomed to live and die.

By these means, all progressive improvement in the country is checked; its resources for advancement in the arts of civilized life are in the hands of the seigniors, and they may alone

reap the advantage. But even in the limited sphere of action allowed to the *censitaire* under this tenure, he is controlled.

The odious claim of *lods et ventes* or the mutation fine of one-twelfth, eight and one quarter per cent on the price of his farm, which he is bound to pay on every mutation of property by sale, or act equivalent to sale, not only diminishes the value of his property, but checks the spirit of enterprise.

This fine is levied on his improvements, thereby taxing his industry to an unlimited extent. The right to *lods et ventes* is unquestionably legal; but its injurious operation is not the less felt.

Although principally oppressive in towns and villages, it paralyses the whole country by its influence, for, by affecting property in the towns and populous villages, the seats of wealth and intelligence, its baneful operation is extended in every direction.

The demoralising effect of this right is unquestionable; because, to avoid its payment, the *censitaires* frequently resort to frauds, often involving in their consequences the crime of perjury. This is an event, at any rate in the District of Montreal, of no unfrequent occurrence, and as the value of property becomes augmented, too likely to be continued.

In addition to these, are the rights of pre-emption, *retrait*, and *corvée*, or days labour, impeding in some degree the improvement of the country; the *retrait*, when misapplied, preventing the free conveyance or transfer of property, and the *corvée* being odious and humiliating to the man.

This right of pre-emption may be rendered most oppressive. It not only gives rise to great abuses in respect of the tenant, by frustrating and interfering with his most cherished plans of amelioration, but it opens the door to exactions on the part of the seignior, against which it is wholly out of the power of the tenant to protect himself, by enabling the seignior to demand any sum he pleases for relinquishment of his right, under the name of a mutation fine.

This is no unfounded charge, for there exists evidence of such abuse in some cases.

The right of *corvée* is hateful in the eyes of the *censitaires*, and it is a badge of servitude.

In many instances these *corvées*, at the execution of *titres-nouveaux*, have been illegally superadded to the contents of the original deeds of concession.

We cannot overlook a stratagem of which some seigniors, as we are informed, have availed themselves to elude the law prohibiting the sale, by the seignior, of uncleared lands on their concession for rent and an additional *bonus*.

The mode of proceeding to attain this object is by making a fictitious concession to an agent or friend, who forthwith sells the land and pays the price to the seignior.

Besides the burthens above mentioned, there are in many seignories the prohibitions to build mills, the right of appropriating six arpents for the erection of any mill by the seignior,

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and this without indemnity for the land, but paying for improvements only, should there be any; the right of taking all timber, such as pine, oak and saw logs, all stone, sand and materials necessary for building, and this without indemnity; the right of changing the course of all streams or rivers for manufacturing purposes, and the right of ferry over rivers. It is even made the subject of covenant, in some early concessions, that the tenant shall have the privilege of using any wood on his land which he may require for his own use.

These reservations are past comment; no system can be devised better calculated to keep a man in perpetual subjection. Under it, all the generous emotions of his nature are stifled. Thus he gradually becomes impoverished; he toils through existence without the hope of relief, and transmits to his posterity a worthless inheritance. Under the operation of such a tenure, his right of property may become a mere delusion; as a moral being, he is degraded, and his position is one of perpetual dependence.

Let us now consider the means which the laws afford to the seignior for the recovery of his rights, and the practical consequences of the exercise of such legal remedies.

To secure these rights, the law awards to the seignior an especial privilege. He is entitled to claim, on the estate of his vassal, a preference over all persons. He can recover arrears of *cens et rentes* for twenty-nine years. These arrears are not only secured by a privileged lien on the land on which they accrued, in preference to all other persons, even to the vendor of the soil, but operates as an incumbrance on all the other possessions of the grantee from the date of his concession deed. For the recovery of his *lods et ventes* he is equally preferred, and it frequently happens that for arrears of that right, he sweeps away the whole of the money arising from the sale of the farm. The tenant is also subject to an action at law for each of the rights and services due under his concession. Although the amount of such dues in money may be trifling, they have hitherto been deemed recoverable in the highest courts of the province.

As the dues are charged upon the land itself, a judgment must be there obtained to enable the seignior to bring it to sale, and obtain payment. Thus the tenant is liable to heavy costs for the recovery of a sum which, but for the nature of the debt, would have been the subject matter of a suit in a court of inferior jurisdiction.

An instance of the mischievous tendency of the law in reference to the compulsory observance of seigniorial services, may be found in the case of the *censitaire* of the seigniory of Beauharnois.

The proprietor of the seigniory obtained Letters Patent for the foundation of a land-roll (*lettres de terrier*), that is, the right of compelling the *censitaires* to take new titles, which consist of an acknowledgement of re-iteration of the terms and conditions of the original grants.

Those *censitaires* who neglected to take such titles, for which also they were bound to pay a fee to the notary, were prosecuted, and judgments were rendered against them, condemning them to accept new titles, and to pay five pounds damages and costs, for having neglected to conform to the requirements of the law. The costs, on

an average, amounted to about ten pounds, thereby entailing an expense which, in some instances, would lead to the sale of the tenant's property.

See Appendix B. The files of the Court of King's Bench for the District of Montreal N^o 123. fearfully illustrate the practical working of the system; for it will there be found that, out of the whole number of actions brought in that Court during the last three years, about one-fifth part were instituted by seigniors for the recovery of rights and services due under the tenure.

Appendix B. N^o 124. The result, appearing from official returns and information, is that, during the same period, somewhat more than one-fifth of the judicial sales were made at the instance of seigniors to enforce their judgments.

Such is the operation of a tenure declared by its apologists to be of surpassing excellence, and suitable to the wants and condition of the inhabitants of this province: but this is not the view entertained by the inhabitants themselves, who are desirous of a change although they differ in opinion respecting the nature of such change. They declare that their burthens are intolerable, and that unless the Legislature come to their relief, inevitable ruin awaits them.

Profoundly impressed with the importance of this subject, and its ultimate effect on the prosperity of this province and the welfare of its inhabitants, we feel that the time has arrived when a change or modification of the law in respect of the tenure of land can no longer with safety be withheld. It has even been asserted, by persons from various sections of the district of Montreal, that the feudal exactions, and the neglect of the government to enforce the ancient laws of the province in relation to the tenure, conduced in no small degree to the outbreaks in 1837 and 1838,

The principal argument used by the advocates of the feudal tenure is that, if the feudal property were converted into free tenure, facilities would be afforded to land speculators to become proprietors of large tracts of land in the seigniories, to the great inconvenience and, in some cases, to the ruin of its inhabitants.

This argument is not only ill founded, but wholly inapplicable, for, under the present system, in some seigniories, the real land speculators are the seigniors themselves.

The lands are brought to sale for payment of the high rents, and the seignior, free from all competition, buys the finest farms for sums scarcely adequate to the payment of the arrears, and makes a traffic of the land by selling again for large sums, or by conceding on conditions infinitely more onerous, thereby securing to himself a monopoly ultimately ruinous to his *censitaires*.

The operation of the tenure in this respect is an abuse and a departure from its true spirit, and one likely to be continued from the very nature of the burthens imposed on the tenant.

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In submitting our views upon a scheme of commutation, we feel compelled to declare that we do so with great hesitation and diffidence.

A subject of such vast importance to the welfare of the community ought not to be lightly treated, nor should any scheme be proposed without possessing all that statistical information relative to the seigniories without which its justice and feasibility cannot be tested, and without a full knowledge of the views and opinions of those most interested in so great a change.

The conversion of a tenure ought not to be recommended without the most unquestionable necessity, nor should the change be determined upon except upon due consideration of the necessary consequences to the rights and privileges of those destined to be affected by it.

Viewing a conversion of tenure in the abstract, or as a mere measure of public utility, called for by the advancement of a country in intelligence and civilisation, it would be less difficult to give the general outlines of a plan calculated to effect it; but regarding the tenure as one under which the inhabitants of this country have lived since its first settlement, as one intimately blended with their laws and customs, the subject becomes intricate and demands the maturest examination.

It cannot be denied that sound policy, for the ultimate well-being of the inhabitants of this community, requires that the feudal tenure should be abolished.

It is no longer suited to the spirit of the age nor the actual wants of the population; it is the relic of a barbarous age, and, in its practical operations, antagonist to the growth and permanency of free institutions.

However advantageous it might have been in the infancy of the colony, and favorable under wholesome restrictions to the rapid settlement of the wilderness, its necessity is no longer felt; and in a more advanced community, it operates as a bar to general improvement and the prosperity of the people.

Situated as is this country, with a belt of land on either bank of the River Saint Lawrence, and along its tributary streams, held under the seigniorial tenure, but surrounded on all sides by a population wholly opposed to it, and holding their lands under rules of an adverse character, calculated to create and to cherish opinions in unison with a higher state of civilisation, it is manifest that the force of circumstances and the general advancement of the country most sooner or later lead to this change.

In the one case, we should see a population rapidly advancing to a high state of prosperity in agricultural and mechanical pursuits, holding their lands under a tenure eminently adapted to foster the principles of freedom and develop the energies of the man; in the other case, a population struggling under the artificial and antiquated system of a by-gone age, with no ultimate hope of relief, and rendered discontented by comparison with their more fortunate neighbours.

A result so certain to arrive, it should be the wise policy of a government to prevent. Under such circumstances, the conversion of a tenure is no longer a matter of expe-

diency, it is one of necessity, and is the only measure by which one portion of the population can be rescued from certain degradation. Were the tenure free, they would feel that they are no longer bound to the soil, they would experience the promptings of a generous emulation, and the necessary result would be the emancipation of a people, and their advancement in all the arts of civilized life.

Assuming therefore that the conversion of the tenure would be expedient, it may be inquired whether such a change is wished for by the entire population of the province. Upon the very limited information possessed by us, we cannot found a general opinion as to that point.

The subject, although of the greatest importance to the whole community, has not, throughout the country, received that degree of attention which it merits. We are possessed of scattered opinions from various sections of the province, but it would be improper to take these few communications as the general sense of the whole population.

We think that the inhabitants of French origin have no great wish to change the tenure of their lands, if it were to be attended by the introduction of any alteration of the laws affecting their rights, although extremely desirous to be relieved from seigniorial burthens. They are anxious to be exonerated from the burthens pressing most heavily on them, but in few instances do they express a willingness to pay any equivalent.

The great majority of the English population are in favor of a commutation, and, in some instances, seem disposed to give a fair indemnity to the seignior.

Modifications, of the seigniorial tenure requisite to meet the views of the majority of the French Canadian population we think impracticable, without a great stretch of power.

The seignior must receive a compensation for his rights, and this compensation can only be given by means of a commutation.

If the *lods et ventes*, *banalité*, and excessive rents be taken away without indemnity, it would be a measure fraught with manifest injustice; for these rights, to a certain extent, are incidental to the very tenure, and in that degree are guaranteed by law. If the tenure be allowed to continue, these rights must also subsist as an essential part of it, and the evils arising from it, the removal of which is so loudly called for, must also remain unabated.

A commutation, therefore, is the only resource left, and this commutation should be based on strictly just principles.

Before proceeding to discuss the various plans submitted to us in the course of our inquiry, it is proper to determine the exact position of the seignior towards his *censitaire*, and the nature of his claims, and to distinguish those rights for which he is intitled to an indemnity, from those which are in their nature honorary or conventional, and which ought to be, without any hesitation, utterly abolished.

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The claims, for whose surrender the seignior is intitled to an indemnity, are, first, the rent or *cens et rentes*, comprising the *corvées* when stipulated ; secondly, the *lods et ventes*. These two rights are those upon which the principle of commutation will chiefly turn.

Reserving the right of *banalité* for future discussion, we have to observe, that for all the other rights and claims of the seignior, such as *retrait* and reservations of every description, except such as are made in the interests of the Crown, the seignior is not, in our estimation, entitled to any pecuniary indemnity, and they ought to be for ever abolished ; because the right of *retrait* is only admitted as the means of obviating frauds on the seignior, and not as a profitable right, and the reservations for the most part are unauthorized by law and repugnant to the principles of the tenure as introduced into this province.

See Edicts & Ord.
vol. II. p. 45, 46, 50,
and 100.

On the subject of the rate of *cens et rentes*, we have already expressed our opinion, and it will rest with the legislature itself to determine that question as it may affect the *quantum* of indemnity.

The various schemes of commutation which have been proposed to us may be classed under three general heads, which will be discussed in their order.

The authors of the first scheme conceive that all the rights of the seignior should be extinguished on payment of a capital sum, of which the *cens et rentes* will be the interest at the rate of six per centum par annum, and of one *lods et ventes*, in full and entire extinguishment of the rights under the tenure, such mutation fine being computed on the value of the farm, less the capital of the rent, by *experts* or arbitrators, one of whom should be chosen by the seignior, and a second by the *censitaire*, and by an umpire, who in all cases should be a commissioner appointed by government : that the commutation should be voluntary on the part of the *censitaire*, and compulsory on the seignior.

This scheme is recommended by men of all opinions, and by many whose knowledge and experience are entitled to the greatest respect. It is contended by some of those who enunciate this scheme that one *lods et ventes* so calculated will be an adequate remuneration to the seignior for the surrender of all his rights, apart from the *cens et rentes*.

The principle, upon which the calculation is based, is that, on an average, every property in a seigniori changes hands once in not less than twenty years, and that, perhaps, the average may be lower.

If then the seignior obtains his mutation fine once in twenty years, the same fine once paid and invested at simple interest, will double itself in fourteen years. It is therefore considered more than an equivalent for the *lods et ventes* alone, and that the overplus would pay for the surrender of all the other rights.

This may be considered to be a very equitable scheme, and one which would secure to the seignior, making a judicious investment, a full indemnity for his rights. The

capital sum thus obtained might either be paid to the seignior or be converted into a *rente constituée*, with its privileges clearly defined by law, chargeable on the land and redeemable at the will of the *censitaire*, in sums of not less than five or ten pounds. The advocates of this scheme consider that the seignior is not entitled to any further indemnity.

In reference to this plan of commutation, we deem it our duty to point out those objections which naturally present themselves, and which might be worthy of consideration in framing any bill founded upon this scheme.

It is proposed that the commutation shall be voluntary on the part of the *censitaire*, but compulsory on the seignior. On behalf of the seignior, it may be urged that, if it be optional for the *censitaire* to commute and not compulsory, such commutation may be forced upon him at all times, on the demand of any one *censitaire*. By this means, he would be compelled to take his indemnity in small sums, and possibly at remote periods of time.

The benefit, therefore, which it is expected he would derive from an investment of his capital to produce a rental equivalent to his rights, would be impaired, while he would be obliged to maintain the same system of expense in agency, &c., for the recovery of his rents, until it should please the *censitaires* to commute.

This objection is not without reason, but it may be observed that, until the commutation takes place, the seignior is still in possession of all his rights, and that, if a limited time were fixed after which it should not be competent for the *censitaire* to commute upon the same favourable but upon more onerous terms, this evil or inconvenience would be mitigated or removed; for this limitation of time would excite the attention of the *censitaire* to the interest which he would clearly have to effect a commutation. But moreover, this objection we deem of no weight when compared to the manifest injustice and hardships which would result to the *censitaire*, if he were compelled at once to redeem rights which he might not have the means to extinguish.

The *censitaires* being the more numerous class, in whose well-being that of the community is more immediately concerned, their interests ought in this particular to preponderate over those of the seignior.

On the part of the *censitaire* it may be urged, that if the scheme should make it compulsory on him to commute immediately, he would be burthened, if unable to pay the capital of the indemnity, with the payment of a yearly rent, in the shape of interest beyond the usual *cens et rentes*, and that, until he chose to sell his land, no mutation fine would accrue, and he would have no more to pay than his usual rent. This argument of the *censitaire*, arising out of purely personal considerations, is merged in the general interests of the community; and, if it be beneficial to him to effect his liberation from seigniorial burthens, the disadvantage arising from the payment of the yearly interest of a small indemnity, is more than compensated by the enfranchisement of his lands and himself upon favorable terms. It will be observed that in this scheme, no time is specified within which the commutation should take place, and the plan would seem defective in this respect.

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The indemnity should in our opinion be liable, after the expiration of a certain time, to a small annual increase ; for the basis of calculation being that all properties change hands once in every twenty years, it should not be in the power of the *censitaire* to await until the twentieth year to effect his commutation.

Upon the conversion of the seigniorial tenure in France in 1790, the rate of indemnity for the right of *lods et ventes* was fixed at one twenty-fourth part, or one half a mutation fine, and two years was the period allowed for the commutation on this principle ; but it was provided that, if the redemption was made at any time after the two years, and that a sale of the same property should be effected by a voluntary contract within two years after such redemption, another half of the mutation fine would accrue to the seignior notwithstanding the commutation. A limitation of time as an expedient, as well for protecting the interests of the seignior, as for inducing a speedy enfranchisement, was adopted in the Ordinance respecting the commutation of seigniorial rights in the seignior of the Island of Montreal.

We think that some rule of this description should be followed.

The second general scheme to which we now refer, is that proposed by the *censitaires* of the seignior of De Léry, Foucault and Lacolle, as set forth in the answers of the Rev. Mr. Townsend transmitted to us.

The scheme by them suggested, is to the following effect : 1st. That the *censitaire* should pay to the seignior a capital sum, of which the rents, that he is legally entitled to demand by his charter, should be the legal interest, with the privilege of paying the capital in sums of not less than two pounds ; 2nd. That he should pay in the same manner a capital sum, of which the annual value of *lods et ventes* should be the legal interest, which amount should be established by a reference to the seignior's books, and by an average on the receipts arising from that right, for a period of five or ten years. That interest should be allowed to the *censitaires* on all sums which should be found on such rent day to be over and above the seigniorial dues. That the seignior's present rights should remain intact until the whole amount of the commutation should be paid, upon which final payment the feudal tenure should cease to exist, and the *censitaire* should obtain a deed in free and common soccage of his land.

It is also considered that the Crown should surrender its rights of *quint* and *relief*, and that a corresponding diminution should be made in the value of the *lods et ventes*. By this plan, it is proposed, that all the other rights of the seignior, such as the right of *banalitt*, *retrait*, and all reservations should be abolished.

This scheme is recommended by the *censitaires* of Foucault and Noyan, and they expressly deny the right of their seignior to any indemnity for the *banalitt*, because no *banal* mill has been built in those seigniories, with the exception of an old mill in Foucault, erected long ago by Mr. Caldwell, but which is altogether insufficient, whereby the *censitaires* are compelled to go a distance of ten, twenty, and thirty miles, to get their corn ground.

This violation of the obligation to build proper mills for the uses of the *censitaires*, they consider, entitles them to some indemnity from the seignior.

But they say that in other seigniories where *banal* mills have been erected, if it should be considered proper to grant an indemnity for that right, a like rule might be applied, and a capital taken of the clear yearly rental of the mills, after deduction of all expenses and charges, and of the interest of the capital invested in the mill.

The principle of the scheme is that it should be voluntary for the *censitaire* to commute, and compulsory on the seignior; and it is recommended that some definite rules should be established by law, as the basis of commutation, which should be applicable to all rural seigniories, leaving the minor details to be settled by the circumstances of each case.

This scheme does not state any particular period within which the commutation should take place, nor does it state in what way the capital sums thus reckoned should be levied in the seignior; but it is presumed to be their intention that the capital be divided and apportioned among the farms according to their value, to be ascertained by appraisalment.

With regard to this scheme, we deem it our duty to declare that, however just the principle may be upon which it is based, that is in giving to the seignior the capital of which the yearly rent is the interest, it is defective on the ground of its being voluntary.

If the time for commutation be unlimited, great uncertainty would prevail in ascertaining the just value of the various rights, particularly the *lods et ventes*, which is fluctuating in its results, and dependent upon circumstances for increase or diminution.

Therefore a certain period should be fixed by law as the time for the valuation of these rights throughout all the seigniories, and that estimate should be taken as the rule for all future commutations; unless it should be deemed preferable to fix some period by law within which the *censitaire* should be bound to commute.

This scheme we cannot but consider as one of great liberality on the part of the *censitaires*, and deserving of serious consideration, for it secures to the seignior the full value of his property; but correct statistical information would be requisite to determine whether or not the apportionment of the capital would not, when the rents are very high, create an incumbrance altogether disproportioned to the value of the farms. In investigating this scheme, much will depend upon obtaining accurate information of the annual value of these rights, and, from some details with which we have been furnished, we are inclined to think that it will be calculated, in the old seigniories, to produce a fair and equitable basis of commutation.

On this head, we may be permitted to refer, for illustration, to the seigniories of W. P. Christie, Esquire, by whose *censitaires* the plan is suggested.

Appendix B, No. 121. From a statement exhibited by that gentleman, of the annual rental of his seigniories in *cens et rentes* and *lods et ventes*, it will appear that the proportion which his rental in *cens et rentes* bears to his rental in *lods et ventes*, is as four or five to one. Then, if the lands are charged with an annual *cens et rentes* of four

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pence per acre, the additional charge created by adding the *lods et ventes* will be about one penny.

A capital, therefore, of which these two sums would be the interest, that is, of five pence, would be the full amount, upon a recognition of the rights of the seignior in their fullest extent, which he would be entitled to demand from the *censitaires* for their surrender; for this sum would of necessity produce the full amount of his income in both particulars.

Thus the commutation would be given upon a payment of a capital of which five pence per acre would be the interest, a sum very little more than the present annual Appendix B. N° 14. amount of the *cens et rentes*. In further illustration, the cases of the seigniories of St. Denis (Quebec), Ste. Anne de la Pocatière, and St. Roch des Aulnets, may be referred to.

In the old seigniories, where the rents are very low, the rate of commutation would be much more moderate, but still equal to the annual income; in support of which

Appendix A. N° 3. fact we refer to the statement of Mr. Parent, agent for the seignior of Lauzon. From his evidence, it will appear that the rental of the *lods et ventes* is, on an average, about one half that of the *cens et rentes*. In that seignior, probably one of the oldest in the province, where the *rentes* are very low, the cost of redemption of the right of *lods et ventes* would be very trifling, and in truth a mere addition of about one or at most two *sols* an acre to the amount of the *cens et rentes*.

These calculations are necessarily in some degree defective, from want of more accurate details of the seigniorial revenues; but the principle on which they have been made, is unquestionably correct, and is sufficiently elucidated to shew the justness and feasibility of the scheme. This plan is deserving of being more closely examined as conducive to the attainment of a result so important to the community. It possess one great advantage over the first plan in this, that considerable doubts may be entertained whether the mutations in the old and well settled seigniories occur once in every twenty years; and, if the mutations do not occur in those seigniories more than once in thirty years, which we are inclined to think near the truth, by giving one *lods et ventes*, which at interest would be doubled in fourteen years, as indemnity to the seignior for that right, a sum infinitely greater than he derives from that portion of his income would be allowed to him.

By ascertaining, therefore, the correct annual income derived from that source, more certain justice would be done to the *censitaire*, while the seignior would obtain the full amount of his dues.

In the majority of the old and well settled seigniories throughout the province, it may be safely said that the annual income from *lods et ventes* is about one half the annual income from *cens et rentes*, and seldom, if ever, exceeds it. In a small number of seigniories, the revenue accruing from *lods et ventes* may be found to be double the income arising from *cens et rentes*. Assuming this statement to be true, the addition of one half to the amount of *cens et rentes* would be the sum in interest, the capital of which would be a full indemnity.

It is in reference to these old and well settled seigniories, where the rent is low, that this scheme is particularly desirable, for the commutation money would be but a trifling increase on the rent stipulated.

But, even supposing that in these seigniories where the rents are so moderate, the revenue arising from *lods et ventes* were equal to the rental of the *cens et rentes*, the principle would apply with greater justice than the other plan based on the uncertain supposition that all properties change once in twenty years, and the indemnity would fall with much less weight on the *censitaire*.

We feel bound to remark that some of the statements, as to the proportion of *lods et ventes* and *cens et rentes*, submitted to us, are inaccurate; but the errors are easily discoverable by calculations made upon the data afforded. In some instances, where it is stated that the rental of the *lods et ventes* is double that of the *cens et rentes*, we find that the assertion is inconsistent with the very data submitted.

With reference, however, to the newly conceded seigniories, where the rents are very high, we do not feel justified in recommending this scheme, as we are certain the payment of a capital for *lods et ventes* in addition to the enormous capital based upon the *cens et rentes*, would entail a burthen intolerable to the *censitaires*, and one which would, in a vast majority of instances, swallow up his entire property.

The cases, therefore, of Foucault, Noyan and other seigniories, are cited purely for the sake of illustration, as detailed statements were received from those seigniories, of the amount of *cens et rentes* and *lods et ventes*.

We have, however, to observe that in the newly settled seigniories, mutations are more frequent than in the old ones, as the seignior, for the recovery of his high rent, is often under the necessity of bringing the property of his tenant to sale, and the inability to pay such high rents leads to the abandonment of the property, or its sale by the tenant at a sacrifice.

The third plan to which we shall now advert is that suggested by Pierre De Boucherville, Esquire, himself a seignior, as set forth in his letter to the late Board of Commissioners, dated 20th June 1842.

It differs entirely from the other schemes submitted, not only in the manner of effecting the commutation, but in the principle on which it should be based, and is to the following effect:

He proposes that the commutation during the first ten years should be voluntary between the parties, if possible; but if not consensual within that period, it should then be optional on the part of the *censitaire*, and compulsory on the seignior, the *censitaire* paying to his seignior, on the estimation of appraisers, one fifth part of the real value of the property enfranchised, such arbitrators being named by the seignior and *censitaire*, and in case of necessity, a third being appointed by the district judge on the application of the parties. If delay should be demanded by the *censitaire* for the payment of the money agreed upon for the commutation, he conceives that ten years delay

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should be given on payment of the interest at six per cent, with privilege to the seignior of *baillieur de fonds*.

At the expiration of the ten years to be fixed for voluntary commutation, it should be in the power of the seignior, or any five of the *censitaires*, to demand a commutation, on notice given at the door of the parish church during three sundays, the amount of indemnity to be settled by agreement, if possible, and if not, then that it should be imperative on the seignior and *censitaire*, by application to the government, to demand the appointment of three commissioners duly qualified by law, who should arbitrarily estimate the whole seigniori or fief according to its probable value, if brought to forced sale. From the value thus ascertained should be deducted the value: 1st—of the manor-house; 2nd—of the domain; 3rd—of the mill or mills, after abating one third on the value of the mills, for the loss of *banalité*; 4th—of the unconceded land, valued at so much the arpent; and lastly, of the voluntary commutation had during the first ten years.

The balance thus obtained would be the amount which should be paid to the seignior. Of these proceedings a *procès-verbal* should be made, and, at the end of three weeks, it should, at the request of the commissioners, be homologated in the Supreme Court of the District, where all oppositions to it should be heard and determined. The value of the fief or seigniori thus definitely settled should be paid by the *censitaires* whose lands had not been freed by agreement during the first ten years, and if not paid in money, should be left at interest for a certain number of years, or converted into a *rente* redeemable at the will of the *censitaire*, but paying eight per cent interest.

The manner followed in assessing property for the erection of a church or other public work, should be followed in assessing the property for the payment of the indemnity.

This outline embraces the chief features of the scheme suggested by Mr. De Boucherville. It is difficult for us, with the imperfect knowledge in our possession of the actual state of the seigniories, to express an opinion upon the merits of this scheme.

There are, however, many objectionable points in it which cannot be overlooked.

The rate established for the voluntary commutation within the the ten years is, in our opinion, exorbitant; one-fifth of the actual value of the land commuted is a proportion which we feel it would be entirely out of the power of the population to pay, even if they were willing, which we think they would not be.

Another objection is, that it would vest unconditionally in the seignior the whole of the unconceded lands in his seigniori. This we cannot recommend.

A modification of this scheme is to be found in the evidence of Mr. Dupuy, public notary, of Laprairie, whose plan is to estimate the actual value of the soil, without buildings or improvements, and to assess it generally on the whole seigniori.

Referring to the plan first noticed by us, we have to observe that this scheme is put forth, not so much as containing a rate of indemnity agreed upon in the various opinions submitted on the question, but rather as embodying the principle on which the commutation should be based.

Thus the reverend Mr. Compte, of the seminary of Montreal, thinks that *lods et ventes* would be sufficient, in addition to the capital of the *cens et rentes*, allowing an indemnity for *banalité* when the case might require it.

Mr. chief justice Reid, whose opinion is unquestionably entitled to the greatest respect, not only from his profound knowledge of the law, but also from the great experience which his long residence in the province, his acquaintance with the people, and the practical working of the seigniorial system, have enabled him to acquire, conceives that a lower rate should, in some instances, be fixed as a compensation for the right of *lods et ventes*, and he accordingly gives as the basis of commutation a graduated scale, varying from one-tenth to one-sixteenth in proportion to the value of the property.

In the opinion of others, such as Mr. Spink, (for many years employed as a seigniorial agent,) one tenth part of the value of the property would constitute a just equivalent for all the seigniorial rights.

There are some persons again who think that the rate should be established on the value of the soil only, and not on the improvements; while others think that one tenth and a half should be given.

The opinion, then, of Mr. Compte is selected to develop the principle of commutation suggested in the first scheme, and is taken as a medium.

That of Mr. Townsend is corroborated by others, but under various modifications, all concurring, however, with regard to the mode of indemnity and its apportionment on the property within the seigniory.

The third plan rests upon the sole opinion of Mr. DeBoucherville, supported in some degree by Mr. Dupuy.

The subject of commutation has thus far been treated solely with respect to the seignior and *censitaire*, and their mutual relations. This partial examination of the question would not lead to a satisfactory result, inasmuch as it does not embrace all the points necessary to accomplish the important object in view. It is obvious that the question of commutation, with a view to its complete development, should be examined with reference to its effects on the rights of third persons. We humbly conceive that the bill, reported by the committee of the honorable house of assembly in the session of 1841, is in this particular defective—the rights of third persons having been, in some respects, overlooked. Those here denominated third persons may be divided into two classes:

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2nd. The creditors of the seignior. Any scheme, therefore, of commutation to be devised, must necessarily embrace these considerations, and the procedure to be observed must be framed in such manner as will secure, to those entitled, the possession of their rights, or an equivalent out of the commutation money.

If in any scheme to be adopted, the commutation be made voluntary, without fixing a time within which it shall be imperative on all persons to commute, great difficulty would be experienced in securing to those concerned their just rights.

It is evident that, under a scheme of voluntary character, the commutations would take place at intervals, and be paid for in small sums. Where should the money, arising from time to time by commutation, be placed to meet the just claims of the creditors, or of persons having real rights in the seignior? Under whose control, and how should they be invested to produce interest, and to accumulate for the formation of a capital to represent the seignior so far, out of which all claimants upon it should be paid?

To secure these rights, it would seem necessary, before any commutation should be allowed, that public notice should be given of the intention of the parties to commute; that the money arising from such commutation should be deposited in some public office or chartered institution, or be invested at interest in public securities under the management of some public officer; that the commutation money should be allowed to accumulate until a certain amount should have been invested, or should be distributed after a certain time without reference to the amount paid in, and that the money of claimants under a substitution not yet accrued, and of others in the like situation, should be invested in real property under the authority of some public officer or tribunal.

We consider it right that in all cases the *censitaire* should have the power of paying up the capital of the commutation money at all times, for, if the capital were in any case to be converted into a perpetual irredeemable rent charge, no relief would, in truth, be afforded to the *censitaire*, and one of the objects of the commutation would not be attained; for the land would continue burthened with much heavier rent than the actual *cens et rentes*.

In the commutation of seigniories held in mortmain, or belonging to bodies incompetent to alienate, there should be a provision requiring the investment of the commutation money, to fulfil the conditions of the charter, or the objects of the institution. If some precautions of this description were not taken, and the seigniors were allowed to receive the commutation money as they might agree with the *censitaire*, it is evident that the effect would be to convert a real right into personal property, and the rights of creditors and of others interested might be lost or endangered.

These observations we have thought it necessary to make on the schemes proposed, and their propriety will be matter for the determination of the legislature in framing any law on the subject.

Having thus stated and considered the three prominent schemes proposed for accomplishing the conversion of the feudal tenure into one of a free character, we now

proceed respectfully to offer our views as to the provisions which would seem expedient to effect so desirable a change.

For this purpose, we shall divide the seigniories into two classes : first, those where the rent is moderate and at the *ancien taux* ; secondly, those where the rents are higher, say, two pence, and upwards, an acre.

With regard to the second class of cases, it is to be observed that, if the capital is to be paid upon the rent at the rate settled by the concession deed, in many seigniories one *lods et ventes* might be too great an indemnity for the *censitaire* to meet ; while, in the old and well settled seigniories, falling within the first class, one *lods et ventes* on farms of great value, might also be considered as excessive, more particularly as we rather think that in the best settled seigniories, and where property is highly improved, the mutations do not occur on an average of once in twenty years as has been supposed and the payment of one mutation fine would amount to levying contribution on the industry of the man rather than on the land itself.

We would prefer the adoption of the plan of Mr. Chief Justice Reid, more particularly in the cases of low rents, inverting however the order of calculation as being better suited to attain justice. His plan is that the commutation money or indemnity should consist of from one sixteenth to one tenth of the value of the property, but subjecting the properties of the greatest value to the payment of the higher rate.

In our opinion, this rule should be reversed, and the lower rate of one sixteenth be made to apply to the valuable farms.

This would tend greatly to facilitate the change, and would be less objectionable, as it would not be taxing the improvements of the farmer ; and, by applying the higher rate, but restricting it to one twelfth instead of one tenth, to the properties of less value, and on which little improvement had been made, the indemnity would be levied on its more legitimate object, namely, the soil itself, by which means the *censitaire* would have less reason to complain.

Independently of our conviction that the more improved and valuable farms do not, on an average, change hands once in twenty years, we consider this modification of Mr. Reid's plan worthy of adoption, as it would tend to remove many of the objections to commute, the principal of which is, in the minds of the *censitaires* in the old seigniories, that the indemnity would be levied on their industry and improvements. In the farms of small value and least improved, the payment of one *lods et ventes*, we think, ought not to be considered as heavy, the more so as it would be levied on the value of the soil with little or no improvements.

In the case of newly settled seigniories, more difficulty naturally exists from the rents being high ; but as the lands, in the majority of these cases, are unimproved, or not much improved, the right of *lods et ventes*, after deducting the capital of the rent, would on this principle be moderate.

Such a scheme would be better calculated to operate as a general rule, than any founded on the views of the Revd. Mr. Townsend, in this, that there are many seig-

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seigniories in which there are high and low rents according as the concessions are new or old.

In these seigniories the *lods et ventes* have principally been derived from the sales of the lands more lately conceded, and, in a great many instances, the lands have been sold at the suit of the seignior for the payment of the high rents.

If, according to Mr. Townsend's suggestion with regard to the extinction of the right of *lods et ventes*, an average revenue of the last ten years be taken and assessed on all the properties, it would be levying the indemnity on many properties which had not contributed to the revenue, and would in all probability meet with opposition.

Besides, in some seigniories the revenue is greatly augmented by the act of the seignior. Thus, by reference to the statement of the sheriff of Montreal, it will be found that the sales of property, for the recovery of seigniorial dues, are as one to five of the whole sales in the whole district, a proportion, we think, affording conclusive evidence as to the working of the seigniorial tenure. It would be manifestly unjust to adopt a revenue thus augmented as the basis of an average to be apportioned over the whole seigniority. It may be added that the sales by the sheriff occur principally in those seigniories where the rents are exorbitant; for in the old seigniories, where the rents are low, the mutations are operated by the ordinary transfers of property.

The scheme of Mr. Townsend, which is moreover objectionable as requiring the expensive process of an immediate valuation of all the seigniories in the province, may be considered as better adapted to the old seigniories, where the rates of *cens et rentes* are uniform and low; but, whether or not it should be preferred to the graduated scale of Chief Justice Reid modified as above, would depend upon an accurate knowledge, which we do not possess, of the actual revenue of the seigniories derived from the right of *lods et ventes*.

It is evident that no great law reform can be devised without the occurrence of individual cases of hardship, and that scheme must be considered the most eligible which contains the best general rule.

As we have before stated, the graduated scale of Chief Justice Reid would apply well to the old and highly improved seigniories; but, in reference to the new seigniories, we have to consider what the charges are for which the seignior is entitled to an indemnity from his *censitaires*.

We must here confess that we have been much embarrassed in our endeavours to discover a scheme of commutation by which the interests and feelings of all parties might be reconciled, and more especially as regards the *quantum* of the annual rent, *cens et rentes*, which, in such cases, ought to be allowed to those seigniors who have either infringed the conditions of their charter, or raised the rent above the legal rate.

We have already given our opinion respecting the legal rate of *cens et rentes*; but we are bound, in justice, to report the arguments used by both seigniors and *censitaires* upon this important subject.

On behalf of the seigniors, it is alleged that they have in their favor a long and uninterrupted possession of the right of conceding at any rate to which the *censitaire* will accede, evidenced by contracts, and sanctioned by the decisions of the courts of law; that, relying on this usage and the judgments of the courts, they have invested their capital in the purchase of seigniories, and have in good faith mortgaged those possessions to creditors, and secured on them the rights of their wives and children; that the value of landed property and its produce, when seigniories were first granted, was much lower than at the present day, and that it would be unjust to force them to grant their lands at the same rent as was imposed under the French Government, when money was of greater value and every thing comparatively cheaper.

On behalf of the *censitaires*, we are told that, if the standard of rents imposed by some seigniors be illegal, they ought not to be compelled to pay them an indemnity for what is not their due, and for what never can be considered as a vested right; and that the seigniors ought to be satisfied with what they have already received; that whatever may be the good faith of those seigniors or others who have invested their capital in the purchase of seigniories, or taken mortgages on them, their case is not favorable, and that they stand in the position of a creditor who, having secured an *hypothèque* or mortgage on a property which he supposed to be his debtor's, cannot pretend to a greater right in it than his debtor had; and that, if the *censitaires* be compelled to pay the capital, of which the rent as stipulated in late concessions is the interest, together with an indemnity for the other rights of the seignior, it would have the effect of making a commutation almost impracticable.

We feel the weight of this argument of the *censitaires*, in considering the case as an abstract question of law; but in framing a legislative measure for the conversion of a tenure, the matter may be viewed in a different light.

Thus it may be equitably urged that the rents imposed on seigniorial lands are a fixed and certain payment, and are rights upon which purchasers and creditors in general have most relied in the investment of their capital; that those rights are moreover secured by contracts followed by long possession, and confirmed by judgments of the courts.

If, therefore, any reduction in the rate of rents should be determined on, it might break up a long chain of rights which, relatively to third persons, may be considered inviolable, the consequences of which might be most injurious to the whole community. Should it be deemed proper to maintain the seigniorial rents as established by contract, and to regard the *censitaire* as held by a contract which in law, it is contended, is not obligatory upon him, are there no other seigniorial charges in respect of which the seignior might be compelled to make a corresponding sacrifice?

After much reflection, we think that in those seigniories where the high rates of rent are most complained of, a different rule might with justice be adopted; and, as the right of *lods et ventes* is in its nature uncertain, and dependent on many contingencies, it might, with greater safety and with much less injury to society, be reduced, than the rate of *cens et rentes*.

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Viewing, therefore, this proposition as a measure of justice towards the *censitaires*, and as a set-off for the higher rent which, on commutation, they would be bound to redeem, we would divide the seigniories into two classes.

In the first class we would rank all those seigniories where the usual and accustomed rent is charged, such as was established before the conquest, and continued for many years afterwards, but limited to two pence an acre; thus assuming that an augmentation of the *cens et rentes* to the amount of double that imposed under the French government, that is to say, two pence an acre, would be fair compensation to the seignior for any change that may have taken place, since the conquest, in the value of money and of produce; and, in the second class, we would place all those seigniories in which the rate is higher than two pence, whether the same be payable in money or in grain, valuing the grain at the market price at the time of the commutation.

In respect of the first class of cases, where the rent does not exceed two pence an acre, we think they might properly fall under our modified scheme founded on the graduated scheme of Chief Justice Reid.

As to the second class of cases, where the rent may exceed two pence an acre, we would recommend that, upon payment of the capital of the rent stipulated, all the other seigniorial burthens, except the right of *banalité* to be determined upon as hereinafter proposed, should be extinguished on payment of a sum, according to the value of the property, reducible in the same ratio as the rent stipulated rises above the rate of two pence an acre.

These suggestions are offered on the supposition that the high rents charged are sufficient to produce a capital nearly, if not altogether, adequate to cover the loss of any indemnity which it might be considered just to allow to the seignior in the old and well settled seigniories, where the rents are generally low.

The right of compelling suit at the manor mill or *banalité* is one of which we find it difficult to treat, for, on the one hand, it may be said that, if indemnity be granted to seigniors for the surrender of that right, the *censitaire* will be subjected to the payment of a double toll, as he might still be necessarily, for some years, obliged to resort to the seigniorial mill; that the seigniors are in possession of all the water powers within their seigniories to the exclusion of the tenants; that, being in possession of those water powers, the seigniors would solely have the benefit of deriving a revenue from mills, and that even such *censitaires* as might have mill-sites, would, from their limited means, in many cases, be unable to enter into competition with their seigniors.

On the other hand, the seigniors may contend that, if the right of *banalité* be a legal one, they are entitled to an indemnity for the surrender of it in all cases.

It seems difficult to reconcile the interests of seigniors and *censitaires* in the valuation of a right dependent on so many contingencies, that no general fixed rule can be adopted for establishing the consideration for its surrender.

Much would depend on the peculiar position or circumstances of the seigniories, in the appreciation of this right; for, in some seigniories there are no water privileges, in others

where they do exist, the seigniors have neglected to fulfil the requirements of the law. There are seigniories in which the right is of value, while in others the maintenance of a mill would be more burthensome than profitable.

Those seigniors, who are in possession of all the mill-sites in their seigniories, having no competition to apprehend from *censitaires*, ought not to except full compensation for a loss which may never be incurred.

Other seigniors, within whose territory *censitaires* may be in possession of mill-sites, might fear competition, which should be taken into consideration.

Thus it would seem scarcely possible to establish any fixed rate of consideration which seigniors ought to receive for the relinquishment of this right; and, therefore, the case of each seignior will stand on its own peculiar merits, and the seignior will either be entitled to indemnity, or not, according to circumstances.

The only mode by which the valuation of this right could be made would be by the appraisement or decision of arbitrators, who, taking these circumstances into consideration, would grant, or deny, to the seignior an indemnity for the same. Wind-mills being *banal* mills according to law, ought not to be overlooked.

In proceeding to legislate on the seigniorial tenure, the subject of the unconceded lands in the seigniories must inevitably be discussed. This is a matter worthy of grave consideration, and pregnant with important consequences to the inhabitants.

It is our duty to remark that, under the seigniorial system as now in operation, it is a great subject of complaint and discontent among the rural population, that some seigniors either absolutely refuse to concede their lands, in the expectation of an increase of their value, or impose on those inhabitants who desire concessions, such terms and conditions as they are incompetent to meet.

This is an assumption of power which, even if the seigniorial system be continued, requires, in our opinion, a very prompt remedy.

Even in the case of the conversion of the tenure, it would be necessary to secure the inhabitants from such exorbitant demands.

Any law authorizing a change of tenure, ought not, we conceive, to vest in the seignior a free and unconditional right of property in the unconceded land in his seignior; and we would recommend that, in such a law, a price should be established at which seigniors should be bound to sell their wild lands.

It might be sufficient to establish a general rule for all seigniories, as the advantages they may possess in point of situation, soil or climate, might require a departure from a general standard; but the adoption of the principle of a maximum and minimum price, dependent on the value of the land, securing to the seignior a just compensation for his right of *lods*

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et ventes, and for the moderate fixed rent he would have been entitled by law to demand under the seigniorial system, would perhaps be the fairest mode which could be devised to do justice to both parties.

The subject of arbitration, as connected with a scheme of commutation, has been canvassed by both seignior and *censitaire*.

Whilst the seigniors would suggest that, in all cases of commutation, one arbitrator should be named by each party, and that in the event of disagreement between these arbitrators, the Court of Superior Jurisdiction of the district should be invested with the nomination of the third arbitrator, the *censitaire* would object to the jurisdiction of the ordinary Courts of Justice in these matters, and would prefer leaving the nomination of that third arbitrator to the Executive Government.

We conceive that, with regard to every scheme of commutation, great apprehensions will be entertained from the difficulty of securing fairness in the valuation of property, by means of impartial and disinterested arbitrations.

In our opinion, the most fair and equitable mode of rendering justice to both seignior and *censitaire* in such cases, would be the nomination of one arbitrator by each, in the manner usual in practice, and the appointment by government of one competent person, possessed of the power and qualifications of an *expert en titre d'office*, as practised in France, or a commissioner whose jurisdiction should extend over each superior district, and whose decision should be liable to a revision before a Board of Commissioners to be named by government, upon an appeal instituted in a summary way by the aggrieved party.

It is pretended by some, that, in all such cases of valuation of property by such means, the seigniors should have the privilege of pre-emption, upon paying to the *censitaire* the estimated value; but we fear that this privilege would, in some cases, be liable to abuse, and might savour too much of the seigniorial right of *retrait*, against which so great an outcry has been raised.

If this mode of arbitration be adopted, we feel confident that neither seignior nor *censitaire* will have cause to apprehend partiality or unfairness in the appreciation of their respective rights.

In the event of the adoption of such a scheme for the conversion of the tenure as would necessarily involve a valuation of all the seigniories, with a view to an apportionment upon the lands held *en censive* of the average annual revenue for which the seignior may be considered entitled to indemnity, we conceive that the appreciation should be entrusted to a Board of Commissioners to be appointed by government.

See Appendix B.
N^o 125.

Although the subject of the *droit de quint*, and other rights due to the Crown on mutation in the ownership of fiefs, has not been specifically referred to us for enquiry, we have been necessarily led into a consideration of the course which it might be recommended to Her Majesty's government to pursue with regard to that branch of the revenue which, on an average, seems to be inconsiderable.

The question as to whether any indemnity should be claimed by the Crown for the loss of those rights, consequent on a conversion of the tenure, has been agitated as well by the seigniors as by the *censitaires*.

After due reflection on the matter, we have to state our humble opinion, that those rights should be relinquished by the Crown without compensation.

If the small amount of the revenue arising from this source be taken into account, its loss to the Crown would be of little importance.

Its surrender would not only be conducive to the favorable reception of a plan for the conversion of the tenure; but would be viewed as an act of justice compensating the seigniors for the extinction of valuable rights and privileges, such as their jurisdiction, the right of exclusive trade with the Indians, and escheat, of which they were dispossessed by the operation of the conquest, and, at the same time, it would supply the indemnity to those seigniors whose peculiar interests might be unprovided for in a general scheme of commutation.

In our views, concerning the surrender of this right, we have the good fortune to be borne out, not only by the authority of the committee of the House of Commons in 1828, which recommended that this right should not be suffered to stand in the way of commutation, but we are supported by the almost unanimous opinion of the inhabitants of this province.

Having brought to a termination our report touching those branches of enquiry which we have been provided with the means of examining and considering, it remains for us to observe with regret, that we have, from the want of the power of compelling the production of evidence, been unable to acquire the desired information on the other objects submitted for our investigation.

The matters which we have thus been forced to leave untouched, are the following:

1st.—The conditions on which lands have been conceded by sub-infeudation (*en arrière-fief*).

2ndly.—The probable quantity of unconceded seigniorial lands in the province, and their quality and value, and also the quantity of lands conceded but not improved.

3rdly.—The value of the seigniorial mills in the province.

4thly.—The annual average of *lods et ventes* paid or accruing in the seigniories.

It is very obvious that on all these subjects we could expect to obtain any accurate knowledge but from one source, namely, the statements of the proprietors of the seigniories and of their agents.

Accordingly, in addition to the questions proposed to them by the first Board of Commissioners, we addressed letters to the proprietors of seigniories, soliciting them to impart to us information on these various points, either personally or by letter; but our just expectation of receiving such valuable intelligence has been disappointed, and but very few of the proprietors have deemed it advisable to respond to our solicitations. Those communications with which we have been favored, are not so full or particular as they could, with no unreasonable degree of labour, have been rendered.

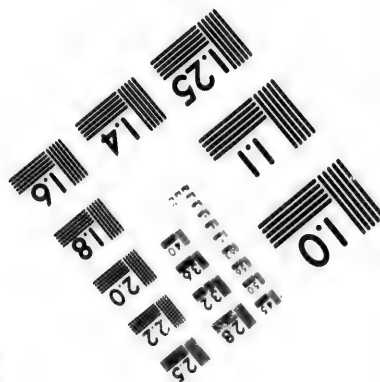
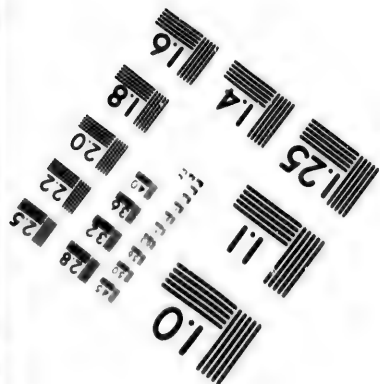
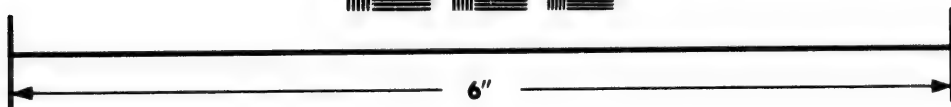
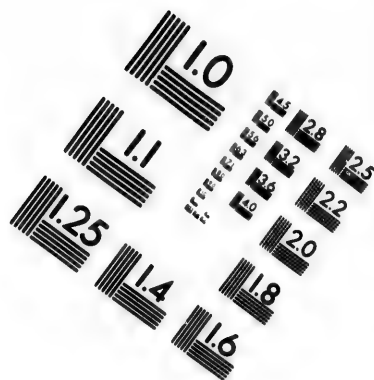
All which is humbly submitted by Your Excellency's most obedient servants,

A. BUCHANAN,

J. A. TASCHEREAU,

JAMES SMITH.

Montreal, 29th March 1843.



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EXTRACT OF APPENDIX

B.

- N^o 192.—Report of attorney general to lord Dorchester.
- " 102.—Extracts from the grant of the seigniori of Two Mountains to the seminary of Montreal.
- " 104.—Extract from letters patent of the King of France, relating to the augmentation of the seigniori of Two Mountains.
- " 105.—Certificate by the Nuns of the General Hospital, Montreal, relating to the seigniori of Chateauguay.
- " 106.—*Procuracion* from the superior of the seminary of St. Sulpice to the superior of the seminary of St. Sulpice, Montreal, relative to the seigniori of Montreal.
- " 107.—Judgment of the *Cour Royale*, relating to Isle Bouchard.
- " 108.—Concession by Sieur de la Valtrie to Frs. Lapointe, 15th June 1780.
- " 109.— Do. by do. to André Gauthier, 9th July 1782.
- " 110.—Proceedings and judgment in the court of King's bench, Montreal, in case Duchesnay *vs.* Hamilton, *et al.*
- " 111.—Proceedings and judgment in said court, in case sir J. Johnson *vs.* Hutchins.
- " 112.—Judgment court of appeals, Sir J. Johnson *vs.* Hutchins.
- " 113.—Judgment court of King's bench, Montreal, in case McCallum *vs.* Gray.
- " 114.—Proceedings and judgment in King's bench, Montreal, in case Guichaud *vs.* Jones.
- " 115.— Do. and do. in do. do. in case Hon. J. R. Rolland *vs.* J. B. Molleur.
- " 116.— Do. and do. in do. do. in case Hamilton, *et al.* *vs.* Lamoureux, and reasons for such judgment given by the Hon. Mr. Justice Pyke.
- " 117.—*Arrêts* and declaration concerning grants in this colony.

N^o 118.

" 119.

" 120.

" 121.

" 122.

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" 124.

" 125.

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Nº 118.—Imperial act 3 Geo. IV, cap. 119.

" 119.—Imperial act 6 Geo. IV, cap. 59.

" 120.—Statement of revenues of seigniory of Argenteuil.

" 121.—Abstract of revenues of seigniories of W. P. Christie, Esquire.

" 122.—Statement of the receipts and expenditure, for public purposes, of the seigniory of Beauharnois.

" 123.—Statement of the number of seigniorial actions issued, Montreal.

" 124.— Do. of the number of executions issued, Montreal, at the suit of seigniors.

" 125.— Do. of *quints* paid to the receiver general, 1803 to 1841.

" 126.— Do. of price of wheat for different years.

" 127.—Tables of the rates and conditions of grants of seigniories.

" 128.— Do. of the do. do. do. of lands *en censive*.

Nº 102.

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OF LOWER CANADA. }

*Report of the Attorney General, to His Excellency the Right Honorable Guy Lord
Dorchester, Captain General and Governor in Chief, in and over the Province of
Lower Canada, &c., &c., &c.*

MY LORD,—Your Lordship having been pleased to refer to me the petition of sundry inhabitants of the seigniory of Longueuil, to the honorable the house of assembly, complaining of an arbitrary increase of the rents paid by them to their seignior, David Alexander Grant, Esquire, for allotment of land which they hold of him as feudal tenants; I have attentively perused and considered the petition, and have now the honor of submitting to Your Lordship the result of my reflections on the subject.

The petition brings forward questions for public discussion upon which there are various opinions. The second clause states that Mr. Grant, in open defiance of the ancient ordinances of the Kings of France, has arbitrarily increased the rents of three lots of land which he has conceded to his tenants since he became their seignior, and the remaining clauses complain that he has increased the *reditus* paid by the petitioners for lands formerly conceded by his predecessors.

The seigniories granted to individuals were numerous in 1672, but the actual settlements being inadequate to their extent, which in most instances was very great, mea-

sures were adopted which were means and were perhaps calculated to encourage an extensive population of the colony.

There are a variety of laws and edicts for this purpose; by some of them a compulsory course was chalked out to effect an escheat of the granted but unsettled seigniories (or a portion of them) to the royal domain.

These laws presume the seigniors in fault for the non settlement of the estate granted to them, and that they refused to make leases or under-grants.

To remedy the evil, the royal edict of the 6th July 1711 enacted that every seignior should concede, upon application, such quantities of ungranted lands as any inhabitant should ask, within the limits of his seignior, *à titre de redevance, et sans exiger d'eux aucune somme d'argent*; and in case of the seignior's refusal, the same edict authorized the governor and intendant to grant the land required *aux mêmes droits imposés sur les autres terres concédées dans les dites seigneuries*.

There does not however appear among the records of the province any edict of the French King fixing the exact *quantum* of the *reditus* or *cens et rentes seigneuriales*; but prior to the conquest, a rule taken from the concessions made by the Crown, where the King was the immediate seignior, was much followed. By this rule, to render any one estimation applicable to the whole province, the *cens* is fixed at one *sol argent tournois*, or a half penny, for every acre in breadth, and the *rentes seigneuriales* at *quarante sols* or twenty pence sterling for every acre in breadth by forty in depth, and one capon or ten pence sterling at the seignior's option, or half a bushel of wheat where the *reditus* was made in grain.

There are two judgments, one of the intendant Begon of the 18th April 1710, and the other of the intendant Hocquart of the 20th July 1733, in some degree confirming this customary regulation; but it must however be remarked, that this rule was not absolutely general, and that the *reditus* in the district of Montreal has always been greater than that of the district of Quebec. It was perhaps impossible, from difference of soil, situation and climate; and upon the whole I do not think that any general rent was by law established, and I conceive the edict of 6th July 1711 to be the only guide for determining the question.

This edict clearly shews an intention, in the legislature of the day, to compel the seigniors to grant their unconceded lands to the inhabitants, and in my apprehension to grant them at the customary rent in their respective seigniories, because that is declared to be the standard by which the intendant, who conceded in case of the seignior's refusal, was directed to estimate the legal *reditus* which he was authorized to establish.

I am therefore of opinion that the present seigniors of Canada have in no instance a right to exact from their tenants more than the accustomed *reditus* fixed by their predecessors before the conquest; and that the legal *reditus* in each seignior is a matter of fact established by the evidence of ancient deeds of concession. And if it was then in the tenant's power to compel his lord to grant his land to him as he had

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granted it to others, through the intervention of the court of the intendant, these terms were and still are his legal right; the edict of the 6th July 1711 is still in force.

As to the clauses of the petition complaining that the seignior has arbitrarily increased the *reditus* paid for lands formerly granted to the petitioners, I am clearly of opinion, that in all cases of leases or concessions already made by the seigniors to their tenants, the *reditus* fixed by the deeds of concession can never be increased by the seignior under any pretence whatsoever. But it is a question whether the petitioners have at present a legal mode of redress against the innovations of which they complain.

As the law stood at the conquest, the tenant, in cases similar to the present, would have found an immediate remedy upon application to the court of the intendant; and I am of opinion that the present courts of the province are adequate to the purpose of affording them effectual relief.

The chief court for securing the property and civil rights of the subject is the court of common pleas. The whole powers vested in the intendant are not, certainly, transferred to that court: for, the intendant could appoint to office, make laws of police and levy taxes; but I am of opinion that the court of common pleas is vested with those branches of his jurisdiction as a judge, which he held for the security of the property and civil rights of the subject; and this has been lately adjudged in the provincial court of appeals, in the case of *Cuthbert vs. Bazil*.

But in giving this opinion, I think it my duty to remark to Your Lordship that the poverty of the tenants in general prevents them from profiting by that mode of redress which I have just pointed out.

They are able to institute and carry on their suits to judgment in the common pleas; equal perhaps to meet the costs of the court of appeals; but the enormous expense attending an appeal to His Majesty in council, to which the seignior is entitled, as his rights in future may be bound by the decision, deprives them of the possibility of obtaining justice, and compels them to abandon their rights, and throw themselves upon the mercy of their antagonist, who compromises the action, and grants a new deed of concession upon his own terms.

All which, &c.

Quebec, 27th February 1794.

Extract from the grant by the Sieur de Vaudreuil, governor, &c., to the Seminary of Montreal, of the seignior of the Lake of the Two Mountains, 17th October, 1717, and from the King's letters patent, confirmatory thereof, 27th April, 1718.

(Translation.)

ORIGINAL GRANT.

"On condition of leaving the necessary roads and communications,—of conceding the said lands on the sole condition of paying twenty *sols* and one capon for each arpent in front by forty in depth, and six *deniers* of *cens*, without stipulating in the deeds of concession for any sum of money or other charge than those above mentioned, according to His Majesty's intention."

LETTERS PATENT.

"On condition of leaving the necessary roads and communications,—of conceding such of the said lands as shall still be uncleared, on the sole condition of paying twenty *sols* and one capon for each arpent in front by forty in depth, and six *deniers* of *cens*, without stipulating in the deeds of concession for any sum of money or other charge than those aforesaid, but with His Majesty's permission to sell or concede at higher rates, lands of which one fourth part at least shall have been cleared."

Extract from the letters patent of the King of France, dated at Versailles, the 1st March, 1735, confirming a grant of 26th September, 1733, made by the Marquis de Beauharnois, Governor, &c., to the Seminary of Montreal, of an augmentation of the seignior of the Lake of the Two Mountains.

(Translation.)

"And the said Ecclesiastics shall be in like manner bound by their tenants to perform the duties of actual settlement within one year, in default whereof the lands hereby granted shall be re-united to His Majesty's domain, forthwith to clear the said lands or cause them to be cleared, to leave the King's highways and such other roads as may be deemed requisite for the public utility upon the said lands, and to insert a like condition in the deeds of concession, which they shall grant to their tenants at the *cens et rentes* and charges per arpent customary in the neighbouring seigniories, regard being had to the quality and situation of the lands at the time of their being conceded in lots; all which conditions it is also His Majesty's pleasure, shall be observed with regard to lands and hereditaments in the seignior of the Lake of the Two Mountains, belonging to the said Ecclesiastics, notwithstanding the establishment of certain rates of *cens* and other charges, and of the quantity of land in

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each lot to be conceded, mentioned in the said letters patent of the year 1718, which His Majesty has in so far revoked."

N^o. 105.

Certificate of the Nuns of the General Hospital, Montreal, relating to the seigniority of Chateauguay.

(Translation.)

We, the Sister Marguerite Le Maire, superior of the community of the Nuns of the Montreal General Hospital, and the Sister Elizabeth Forbes, commonly called McMullin, custodiary of the property of the said community, having in our said capacities the sole charge of the affairs of the said community, hereby certify that the Nuns of the General Hospital, as administratrices of the property of the poor of the said General Hospital, are the seigniors in possession, on behalf of the said poor, of the seigniority of Chateauguay, situate in the District of Montreal, bounded on one side by the seigniority of Villeneuve or Beauharnois, now known by the name of Annefield. We further certify that the highest rate of *cens et rentes* payable in the said seigniority of Chateauguay is five *sols tournois* as *cens* for the whole lot conceded, one *sol tournois* (French currency) for each superficial arpent, and one half minot of dry, clean, sound merchantable wheat, for each twenty superficial arpents, as seigniorial rent; and that the lowest rate of such *cens et rentes* is three *sols tournois* as *cens* for the whole lot conceded, one *sol tournois* (French currency,) for each superficial arpent, and a capon or twenty *sols* in money for each twenty-five superficial arpents, as seigniorial rent. We further certify that to the best of our knowledge, the latest concessions made in the said seigniority of Chateauguay were made in the years 1799, 1800, and 1801.

(Signed)

SR. M. MARGUERITE LE MAIRE, Sup.

SR. McMULLIN, Custod.

Montreal, 8th March, 1830.

We certify that the above admission was filed in a cause in the Court of King's Bench at Montreal, "*Ellice vs. Manning*," and is now of record.

(Signed)

MONK & MORROGH, Proth.

Montreal, 10th August, 1842.

Procuration from the Superior of the Seminary of St. Sulpice to the Superior of the Seminary St. Sulpice, Montreal, relative to the seigniority of Montreal.

(Translation.)

We, François Leschassier, Doctor in Theology of the Faculty of Paris, Superior of the Ecclesiastics of the Seminary of St. Sulpice of Paris, seigniors of the Island of Montreal and other places thereon depending in New-France, being desirous of promoting, in so far as in us may lie, the advancement of the settlement of the said Island and its dependencies, by inviting such persons as are capable of bringing the vacant lands into cultivation to establish themselves thereon, and thereby to increase the number of inhabitants and habitations in the same, do hereby authorize and empower the Rev. Mr. François Le Vachon de Belmont, Priest, Bachelor of the Sorbonne, whom we have constituted and appointed Superior of our Seminary of Montreal, and of such of the Ecclesiastics of St. Sulpice as are in New-France, to concede such lands as may be found vacant, and other than such as we shall hereafter reserve for ourselves within the limits of our said seigniority, to such persons as he shall deem best fitted to advance the settlement of the said colony, reserving such *cens* and seigniorial charges as it shall then be customary to impose in the said country on lands and hereditaments of like kind; provided that the lands conceded to one individual shall in no case exceed in the whole six score arpents, to the end that the number of inhabitants may be the greater, and that each may himself cultivate the lands granted to him; for which reason the said sieur de Belmont shall not grant lands, by any title whatsoever, to any party who would hold the same in mortmain, nor shall he grant any of the said lands to be held *en fief* or as an *arrière-fief*, to any person or for any cause whatsoever, without being first thereunto specially authorised by us or our successors, Superiors of the Seminary of St. Sulpice; and we further enjoin the said sieur de Belmont to select and cause to be marked out, in three or four different sections of the said Island best adapted for the purpose, and as little distant as may be from the town called Ville-Marie, tracts of at least sixty arpents in width of the said vacant lands, on which the finest timber shall be found, for the purpose of being constituted forests, which we direct to be reserved and kept for unforeseen occasions, and for the use of the seigniors, and also a certain small tract of about two hundred arpents of woodland which remain unconceded near the tract of about the same extent granted to the Hospital in the year 1682; with power to the said sieur de Belmont to receive yearly, and to employ the revenues of the said seigniority, in his discretion, for the use of the Seminary of Ville-Marie, and for the benefit of the said settlement, and for this purpose to do all necessary acts and things;—and we further authorize and empower him to demand and receive all sums which are or may be hereafter due as indemnity to the seigniors from any community or party holding in mortmain; provided always, that he shall not decrease or remit any part of such indemnity, inasmuch as the same is an inalienable fund of the said seigniority, for the benefit whereof all sums received for such indemnity shall be by him employed in the purchase of such useful property as we shall deem it expedient to recommend upon notice to us by him given; nor shall he decrease or reduce the rate of the rents and seigniorial dues which have

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been or shall hereafter be constituted for the benefit of the said seigniors, and whereof he shall cause all necessary acknowledgements to be made and taken :—And we further empower the said sieur de Belmont to appoint and remove, when need shall be, the officers employed in the exercise of the jurisdiction which we have reserved to ourselves at the chief seat of our said seigniory of Montreal, causing all offices thereunto appertaining to be filled by upright and qualified persons, as shall to him appear expedient. In testimony whereof we have signed these presents with our hand, and have caused the same to be countersigned by our secretary, who hath hereunto affixed the seal of our said Seminary, to the end that they may be and remain in force and effect until the express revocation thereof.

Done at Paris, in our said Seminary of St. Sulpice, on the nineteenth day of March, one thousand seven hundred and two.

(Signed) LESCHASSIER,

And below,

BOURBON, Secretary.

(Signed) DESCHAMBEAULT,

ADHEMAR.

Extracted from the registers of the Royal Jurisdiction at Montreal, for the sitting held on Tuesday, the 21th June, 1702, before Monsieur the Lieutenant General.

We certify that the above procuration was enregistered in the *jurisdiction Royale* of Montreal, in open court, on the 27th June, 1702, as appears by the register of that court in our custody.

(Signed) MONK & MORROGH, Prothonotary.

Montreal, 7th August, 1842.

Nº 107.

Judgment of the Cour Royale, relating to the Isle Bouchard, on the 25th June, 1745.

(Translation.)

Between Mrs. Louise Catherine Robineau, widow of the late François Degordy, in his life time Esquire, Chevalier of the Royal Military Order of St. Louis, Major of Three Rivers, seignior of the Isle Bouchard, partly in her own right and partly as tutrix to the minor children of herself and her said late husband, plaintiff, for the purposes seth forth in her declaration, served by the bailiff *Comparé*, on the 3rd day of February last, on the one part ; and Michel Colin *dît* Laliberté, *habitant*, of the said Isle Bouchard, defendant, on

the other part. Having before us the said declaration, concluding that the said défendant be held to exhibit the title deeds by virtue whereof he possesses one hundred and twenty arpents of land in the said seignior of the Isle Bouchard, bounded in front by the Villebon Channel, and in the rear by the River St. Lawrence, on one side by Pierre Larose, Esquire, and on the other by Jean-Baptiste Edeline, and to pay the value of two days of *corvée* at forty *sols* a day, and such sum as the Court shall direct for the exercise of the right of fishing since he has been in possession of the said land, and the sum of six *livres* as the value of a net which the said plaintiff lent him, and also the *cens et rentes* and seigniorial dues, according to the ancient deeds of concession, of the other *habitants* of the said seignior; and to continue to pay the said rights and dues in future, to pass a *titre-nouvel* or acknowledgement of the same before notaries, and to deliver a copy thereof in due form to the said plaintiff; and having also before us our order of reference to *experts* made on the 12th of February last, and the certificate of the service thereof on the said défendant by the said *Comparé*, on the 17th of the same month, with a summons to comply therewith, and the petition filed; the said défendant praying, that inasmuch as the said plaintiff is not entitled to the said days of *corvée*, because she has sold the common for which the same are due: she may be ordered to permit him to enjoy the said land as he hath heretofore enjoyed the same, on his passing (as he offers to do) a title in her favor, according to the Custom of Paris followed in this country, and to which he is willing to submit, declaring also that he has, three weeks ago, returned to the plaintiff the net which she demands, and praying costs, and our order thereupon made on the 19th day of the said month, and directed to be served on the parties and inserted in the record of the cause pending between them, to the end that reference may be thereunto had in the decision of the said cause, (the said petition and order having been served on the said plaintiff by the bailiff Davesne), and the exhibits produced by the parties on the 25th day of March last, according to their respective lists, dated the 12th February and the 17th of March last, which they respectively caused to be served on each other on the 17th of February and the 20th of March aforesaid, and the act produced in the office of the Clerk of this Court by the said plaintiff, and bearing date the 19th of February last, and served on the défendant on the 10th of March last: and more especially on the part of the said défendant, a judgment rendered by Mr. Hocquart, then intendant in this country, on the 8th day of July, one thousand seven hundred and thirty, in a cause between the said plaintiff and Marguerite Benoit, widow of the late Jean-Baptiste Edeline, on behalf and in her quality of mother and natural tutrix to Jean-Baptiste Edeline, her minor son, whereby, on the claim made (among other things) by the said widow Edeline, to be discharged from the said days of *corvée*, the action was dismissed, and an acquittance granted by the said plaintiff to the said défendant on the 11th of November, one thousand seven hundred and forty-three, for the *cens et rentes* on his land in her seignior for the said year one thousand seven hundred and forty-three; and on the part of the said plaintiff a deed of concession made by the said late Sieur Degordy to Jacques Foisy, of eighty-six arpents of land, or thereabouts, in the said seignior of the Isle Bouchard, before Mtre. Raimbault, notary, on the 14th of December, one thousand seven hundred and nine, on the conditions and subject to the clauses and charges therein set forth; and a judgment rendered on the 3rd of June, one thousand seven hundred and fourteen, by Mr. Begon, then intendant in this country, whereby the *habitants* of the seignior of the Isle Bouchard are condemned to render to the said Sieur Degordy the days of *corvée* mentioned in their

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respective deeds of concession, and whereby the time at which the said days ought to be given are regulated, and the other exhibits produced by the parties, and the conclusions taken by the attorney-general on the 14th of the present month.

And having duly considered the whole, we have condemned the said defendant to pay to the said plaintiff the sum of three *livres* for two days of *corvée* for the year now last past, together with four *livres* ten *sols*, one *sol* of *cens* and six capons for one year's *cens et rentes*, due on the 11th of November last, the whole lawful currency of France; and to render and pay the said *cens et rentes* and *corvées* yearly; and we condemn him also to return the nets lent him by the said plaintiff or to pay her the value thereof, to be estimated by appraisers to be agreed upon by the parties; and also to account for and deliver to her the eleventh part of all fish which he hath taken during the last year, or shall hereafter take; and to execute in favor of the said plaintiff a new title and acknowledgement of the dues aforesaid, before a notary, and to furnish her with a copy thereof within fifteen days; and in default of the said defendant so to do, this, our judgment, shall avail to the said plaintiff as a title. And we condemn the said defendant to pay the costs taxed at sixteen *livres* and fifteen *sols*, the cost on this judgment not included.

And we command, etc.

Done at Montreal, the twenty-fifth day of June one thousand seven hundred and forty-five.

Signed, Guiton, Monrepas. On one side is written, to us, six *livres*; to the attorney general, four *livres*; to the prothonotary, four *livres*.

(Signed)

DAURÉ DE BLENZY.

We certify that the above is a correct copy of a judgment of the same date in the registers of the *Cour Royale* at Montreal, in our custody.

(Signed)

MONK & MORROGH,

Prothonotary.

Montreal, 15th August, 1842.

N^o 108.

Concession by Sieur de la Valtrie to Frs. Lapointe.

(Translation.)

15TH JUNE 1780.

Before the undersigned Notary Public for the Province of Quebec, District of Montreal, residing at Terrebonne, and the witnesses hereinafter named, personally appeared Pierre Morganne, Esquire, Sieur de la Valtrie, seignior thereof, and of Terrebonne, Mascouche and other places;

Who hath by these presents granted and conceded henceforth and for ever, à titre de cens and on condition of the payment of seigniorial and irredeemable ground rent, with warranty against all troubles and hindrances whatsoever, unto François Gaudard dit Lapointe, farmer, residing at Mascouche de Terrebonne, hereunto present and accepting the same, to be holden by the tenure aforesaid, for himself, his heirs and legal representatives for ever, a certain lot of land of two arpents and ten feet in front by forty arpents in depth, lying and being on the north side of the River Ste. Marie, in the said seigniory, bounded in front by the said river, and in depth by the lands on Le Bras, on one side to the north-east by the lands of Joseph Chaumont, and on the other to the south-west by those of Gabriel Forget ;

The said grantee being, before the passing hereof, in possession of the said lot which lieth within and is holden of the said seigniory, and is hereby charged with the payment to the seignior thereof of two sols tournois for each superficial arpent, and five sols de cens for the whole lot, according to the usage and custom followed in this country, payable yearly, commencing at Martinmas, the 11th day of November next, and so continuing yearly for ever, the same being for cens ann seigniorial irredeemable ground rent, the said cens carrying with it the right of lods et ventes, défaut, seizure and fine, when and so often as the same shall accrue, with the right to the said seignior of taking the land hereby conceded in case of the sale or mutation equivalent to sale, of the whole or of any part thereof (even in preference to the relations by blood), on reimbursing to the purchaser the price he may have paid, with his lawful charges and disbursements, the proprietor of the said land being subject also to the obligation to carry his grain to be ground at the mills of the said seigniory, without the right of causing it to be ground elsewhere, on pain of the forfeiture of such grain and fine, and also on pain of paying to the miller of the seignior the toll on the grain he shall have so carried to be ground elsewhere.

To be the said land held, enjoyed and disposed of by the said grantee, his heirs and legal representatives henceforth and for ever, as to them shall seem meet, but without power to him or them to convey the same or any part thereof to any community or party holding in mortmain, or to impose cens upon cens.

The said land being conceded subject to the charges aforesaid, and also on condition that the proprietor shall allow thereon all roads, bridges and other like things which the said seignior shall deem necessary for public utility, and shall keep the same passable ; and that the said seignior, his heirs and legal representatives shall have the right of taking from off the said land such timber as may be required for his mills, or for any church, parsonage house, principal manor-house, or other work of public utility, or for his private use, without paying any price or indemnity for the same ;

And that the said grantee shall not build any grist mill or saw mill without the permission in writing of the said seignior, who hereby reserves for himself all rivers and water courses on which such mills can be constructed.

And the said grantee shall be bound to reside and to perform the duties of actual settlement on the land hereby conceded, and to clear the same for his use as such clear-

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ance shall become necessary, and to pay the tithes to the *curé*; all which the said grantee promises and binds himself, his heirs and legal representatives to do and perform, and to pay the seigniorial *cens et rentes*, at the place appointed for that purpose, yearly at Martinmas aforesaid, the 11th day of November next, and so to continue as long as he shall hold and possess the said land or any part thereof.

And the said seignior hereby expressly reserves for himself all mines and minerals which may hereafter be found on the land hereby conceded, and also the right of taking out of all quarries and other places such stone as he may require for mill stones or for building, and of disposing of the same in such a manner as to him, his heirs and legal representatives shall deem expedient.

And the said grantee binds himself to improve the said land and to keep it in such state that the said *cens et rentes* may easily be levied annually from off the same.

And for the due performance of all the foregoing clauses and conditions the said grantee hereby hypothecates all his property moveable or immoveable, present or future, nor shall the general and the special obligation in any wise derogate from or impair the one or the other.

And if the said grantee, his heirs or legal representatives, shall fail to comply with the clauses and conditions hereinbefore written, it shall be lawful for the said seignior to re-enter of full right upon the land hereby conceded, without being bound to any previous suit or legal proceeding whatever, these presents remaining nevertheless in force and virtue; and the said grantee shall moreover cause the said land to be measured and bounded throughout its whole length and breadth by a sworn surveyor, and shall, at his own cost and charge, furnish a copy of the *procès-verbal* of the survey and of these presents to the said seignior.

For thus, &c.; promising, &c.; obliging, &c.; renouncing, &c.

Done and passed at Terrebonne, in the forenoon of the 15th day of June, in the year 1780, in presence of Claude Romant, merchant, and Pierre Le Fort, bailiff, witnesses, who have signed with the said seignior on the original remaining of record in my office, the said grantee having declared himself unable to write or sign his name, being thereunto requested, these presents being first and duly read over.

(Signed)

DUSAULT, N. P.

N^o 109.*Concession by Sieur de la Valtrie to André Gauthier.*

(Translation.)

9TH JULY, 1782.

Before the undersigned notary public for the Isle Jésus, Terrebonne and other places, in the district of Montreal and province of Quebec, residing at the village of Terrebonne, and the witnesses hereinafter named, and by order of Pierre Marganne, Esquire, Sieur de la Valtrie, seignior of Terrebonne aforesaid, Mascouche and other places ;

Who hath by these presents granted and conceded henceforth and for ever *à titre de cens*, on condition of paying the *cens* and the seigniorial and irredeemable ground rents hereinafter mentioned, with warranty against all claims and hindrances whatsoever, unto André Gauthier, farmer, residing at La Grosse Chaussée, Mascouche de Terrebonne, hereunto present and accepting the same on the said tenure and terms for himself, his heirs and legal representatives for ever, a certain lot of land of three arpents in front by forty in depth, lying at La Grosse Chaussée aforesaid, and bounded in front by the lands of Antoine Frajour dit Bonnetterre, and in the rear by those of Bazil Huot and François Payet dit St. Amour, on one side to the north east by the lands of Léonard Peltier, and on the other side to the south west by those of the said Payet ; the said land hereby conceded being within and holden of the seigniority aforesaid and hereby charged with the payment to the seignior of two *sols tournois* for each superficial arpent, and five *sols of cens* for the whole land so conceded, according to the ancient custom followed in this country, the same being payable on the fifteenth day of January next, and on the same day in each year thereafter, the said *cens* carrying with it the seigniorial rights of *lods et ventes, défaut*, seizure and fine whenever the same shall accrue, and also the right of pre-emption in favor of the seignior in the case of the sale or alienation equivalent to sale, of the whole or of any portion of the lot hereby conceded, even in preference to the relatives by blood, on his re-imbursing to the purchaser the price by him paid, with his lawful costs and disbursements ; subject also to the obligation on the part of the grantee to grind his grain at the mills of the said seignior, without the right of causing them to be ground elsewhere, on pain of forfeiture of such grain and fine, and of paying the toll on all grain which he shall have caused to be ground elsewhere.

The said land hereby conceded to be enjoyed and disposed of by the said grantee his heirs and legal representatives henceforth and for ever, as to them shall seem meet, by virtue of these presents ; but nevertheless without power to sell or convey the same or any part thereof to any community or party holding in mortmain, or to impose *cens* upon *cens*.

The said land being conceded subject to the charges aforesaid, and also on condition of allowing thereon all roads, bridges and other like things of public utility which the said seignior shall deem necessary, and of keeping the same passable ; and the seignior, his heirs and legal representatives shall also have the right of taking from off the said land such timber as shall be required for his mills or for churches or personage-houses, or for his principal manor house, for the public utility or for his or their private use and without paying an indemnity therefor ; nor shall the said grantee build any grist-mill or saw-mill without permission in writing, the said seignior reserving for himself all rivers and water courses adapted for the construction of any such mills.

And the said grantee shall be bound to reside and to perform the duties of actual settlement on the said land, and to clear the same so as to afford air and light to his neighbours as need shall be, and to pay tithes to the *curé* ; all which conditions the said grantee for himself, his heirs and legal representatives hereby promises to perform, and to pay the said seigniorial *cens et rentes*, at the place to be appointed by him for that purpose, on the fifteenth day of January in each year, so long as he or they shall remain in possession of the said land or of any part thereof.

And the said seignior hereby expressly reserves for himself, his heirs and legal representatives, all mines and minerals which may hereafter be discovered on the said land, and also the right of taking at his pleasure from quarries and other places all such stone as may be required either for mill-stones or for building ; and the said grantee binds himself to improve the said lot and to keep it in such a state as that the *cens et rentes* may easily be collected yearly upon the same ; and for the due execution of the foregoing clauses and conditions, the said grantee hereby hypothecates all his property moveable and immoveable, present and future, in such manner that the general hypothec shall not derogate from or impair the special ; and if the said grantee, his heirs or legal representatives shall fail to perform the clauses and conditions aforesaid, it shall be lawful for the said seignior to-enter of full right upon the land hereby conceded without any previous suit, legal form or proceeding whatsoever, these presents remaining nevertheless in full force and effect ; and the said grantee shall cause the said land to be measured and bounded throughout its length and breadth by a sworn surveyor, and at his own cost to furnish a copy of the *procès-verbal* of such survey and of these presents to the said seignior.

For thus, &c., promising, &c., obliging, &c., renouncing, &c.

Done and passed at Terrebonne in the afternoon of the 9th day of July, in the year one thousand seven hundred and eighty-two, in presence of Pierre Le Fort, who hath signed, and Germain Gariépy, who with the said grantee have declared themselves unable to write their names, but have made their ordinary marks ; the original of these presents remaining of record in the office of the undersigned, being first duly read over.

(Signed

DUSAULT, N. P.

N^o 110.

Proceedings and judgment in the Court of King's Bench, Quebec, in case Duchesnay vs. Hamilton et al.

(Translation.)

N^o 1.

PROVINCE OF LOWER CANADA, }
DISTRICT OF QUEBEC.

IN THE KING'S BENCH.

MICHEL-LOUIS JUCHEREAU DUCHESNAY,

Plaintiff,

vs.

WILLIAM HAMILTON and MARTIN KELLY,

Defendants.

To the Honorable the Justices of His Majesty's Court of King's Bench for the District of Quebec ;

Michel-Louis Juchereau Duchesnay, of the city of Quebec, esquire, seignior of Fossambault and Gaudarville, complaining of William Hamilton and Martin Kelly, traders, residing in the said city of Quebec, by this his declaration humbly represents :

That the said defendants are in possession of and hold a certain lot of land and habitation situate in the parish of Ste. Catherine, in the said seigniory of Fossambault, in the fifth concession of the said seigniory, the said lot being three arpents in front by thirty-four arpents or thereabouts in depth, and bounded in front towards the south by the River Jacques Cartier, and in the rear towards the north by the lands of the seventh concession, on one side towards the east by the lot commonly known as number twenty-six, and on the other side towards the west by the lot commonly known as number twenty-four ; which said lot of land and habitation the said defendants acquired from one John Walsh, in the course of the year now last past.

That the said lot of land and habitation is charged in favor of the said plaintiff with four pence currency, as seigniorial *cens et rentes* on each superficial arpent, and is subject to the right of conventional *retrait* and to divers other seigniorial and conventional rights, as the neighbouring lands likewise are.

That the said defendants refuse not only to pay to the said plaintiff the said *cens et rentes*, of which they owe him three years arrears, but also to pass in his favor an acknowledgment of the said *cens et rentes* and other seigniorial and conventional rights with which the said land is charged in his favor.

All which allegations the said plaintiff avers to be true and well founded in fact and in law, and offers to justify, prove and maintain when and in such manner as this honorable court shall be pleased to direct.

Wherefore the said plaintiff prays that a writ may issue out of this honorable court to compel the said defendants to be and appear before this honorable court on Monday the second day of October next, to answer the demand of the said plaintiff in this declaration contained;—and that for the causes aforesaid and by the judgment of this honorable court the said William Hamilton and Martin Kelly, and each of them, may be condemned to pass in favor of the said plaintiff, as seignior of the said seignior of Fossambault, their declaration in due form and before a notary, to be agreed upon by the parties, or in default, to be appointed by the court, such declaration containing :

1st. A specification of the title by virtue whereof the said defendants have become proprietors of the said lot of land and habitation ;

2nd. A description of the said lot of land by its present metes and bounds, and an exact statement of its measure and content ;

3rd. A statement of the *cens et rentes* and other obligations and dues, seigniorial or conventional, with which the said land is charged in favor of the said plaintiff, as seignior of the said seignior of Fossambault, mentioning also the time and place when and where the said obligations and dues are to be paid and performed;—and that the said defendants may be also condemned to pay to the said plaintiff the arrears of the said *cens et rentes* and other seigniorial dues, with ten pounds currency for damages and costs.

(Signed)

VALLIERES DE ST REAL.

12th September, 1826.

N^o. 2.

PROVINCE OF LOWER CANADA,)
DISTRICT OF QUEBEC. }

IN THE KING'S BENCH.

MICHEL LOUIS JUCHEREAU DUCHESNAY,
Plaintiff,

No. 1376.

vs.

WILLIAM HAMILTON,

Defendant.

And the said William Hamilton, for answer to the demand contained in the declaration of the said Michel Louis Juchereau Duchesnay, in this cause filed, not confessing or acknowledging the truth of any of the matters and things in the said declaration set forth and al-

leged, except that the said William Hamilton is the proprietor or possessor of the lot of land therein mentioned, by this his perpetual peremptory exception in law, saith, that the said plaintiff cannot by law at any time have and maintain any action against the said defendant for and by reason of any of the matters and things set forth and alleged in the said declaration, because at the time when the said defendant acquired the said lot of land from one John Walsh, by an instrument under private signature, bearing date the 3rd day of February, one thousand eight hundred and twenty-five, (which said instrument was thereafter ratified and confirmed by the said plaintiff, by another instrument under private signature, bearing date the 12th day of February in the said year) the amount of the *cens* which the said defendant was to pay to the seignior within whose *censive* the said land lay, was not stipulated nor mentioned, either by the plaintiff or the said John Walsh, to the said defendant.

Because the said William Hamilton has never refused to pass a title, declaration and acknowledgment of the *cens et rentes* and other seigniorial charges due to the seigniors of the place in which the said land is situate, at the rate of one *sol*, *tournois* currency, for each superficial arpent, which is the rate at which a great number of the lands situate in the same seignior with the land in question have been conceded; which said title and declaration the said defendant hath often, before the commencement of this action, offered to the seignior of whom the said land is holden, on the conditions aforesaid.

Because, by the law in force in this Province, the seignior is bound to concede his lands at the ordinary rate at which lands have been conceded in his seignior.

All which allegations the said William Hamilton avers to be true and well founded in fact and in law, and the same will verify, prove and maintain when and in such manner as this honorable court shall be pleased to direct.

Wherefore the said William Hamilton humbly prays that, for the reasons aforesaid, the action of the said Michel Louis Juchereau Duchesnay may by the judgment of this honorable court be dismissed with costs.

This 9th day of October, 1826.

(Signed)

N. AMIOT,

Attorney for defendant.

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PROVINCE OF LOWER CANADA, }
DISTRICT OF QUEBEC. }

IN THE KING'S BENCH.

M. L. J. DUCHESNAY,
Plaintiff.

No. 1376.

vs.

WILLIAM HAMILTON & MARTIN KELLY,
Defendants.

Michel Landry, one of the sworn bailiffs of His Majesty's Court of King's Bench of and for the district of Quebec, hereby certifies on his oath of office, that on the 28th day of February instant, before eight o'clock in the evening, at Quebec, he personally served the original judgment hereunto annexed on William Hamilton, one of the defendants in this cause, by then and there delivering to him a true copy thereof, and then and there exhibiting to him the original of the said judgment.

Quebec, 28th February, 1827.

(Signed)

M. LANDRY,
B. K. B.

PROVINCE OF LOWER CANADA, }
DISTRICT OF QUEBEC. }

IN THE KING'S BENCH.

THE 12TH DAY OF FEBRUARY, 1827.

No. 1376.

Michel Louis Juchereau Duchesnay, Esquire, of the city of Quebec, in the county of Quebec, in the district of Quebec, seignior of Fossambault and Gaudarville,

Plaintiff ;

vs.

William Hamilton and Martin Kelly, of the city of Quebec, in the county and district of Quebec aforesaid, traders,

Defendants.

The court having before it the written and oral evidence filed of record in this cause, and having heard the parties finally upon the merits of the present action, and on the whole maturely deliberated, considering that the plaintiff hath discontinued his action as against Mar-

tin Kelly, one of the defendants, condemns William Hamilton, the other of the defendants, to execute and pass in favor of the said plaintiff a declaration in due form before a notary, to be agreed upon by the parties, at the office of the Prothonotary of this court, within fifteen days from the service of the present judgment, or in default, after the expiration of the said period, to be named by the court, which declaration shall contain:—1st. A specification of the title by virtue whereof the said defendant hath become proprietor of the lot of land and habitation designated in the declaration fyled in this cause;—2ndly. A description of the said lot of land by its present metes and boundaries, and also an exact statement of its measures and contents;—3rdly. An acknowledgment of the *cens et rentes* and other seigniorial and conventional obligations and dues wherewith the said land is charged in favor of the said plaintiff as seignior of Fossambault, mentioning also the time and place when and where the said obligations and dues are to be performed and rendered; and the court also condemns the said William Hamilton to pay to the said plaintiff the arrears of the said *cens et rentes*, at the rate of four pence currency, per annum, for each superficial arpent of the said land and habitation, and also the arrears of all other seigniorial dues with which the said land is charged; and the court also condemns the said defendant to pay to the plaintiff the sum of five shillings currency, for damages, and the costs of the present action.

(Signed) PERRAULT & BURROUGHS,
P. B. R.

N^o 111.

Proceedings and Judgment in the Court of King's Bench, Montreal, in the case of Sir J. Johnson vs. Hutchins.

PROVINCE
OF
LOWER CANADA. }

IN THE KING'S BENCH.

SIR JOHN JOHNSON,
Plaintiff;

vs.

JOHN S. HUTCHINS,
Defendant.

An action brought by the plaintiff, as seignior of the seigniori of Argenteuil, against the defendant for *lods et ventes* on two certain lots of land situate in the said seigniori, namely: "two lots of land on the north side of North River, containing one hundred superficial acres each, bounded in front by the said North River, in the rear by ungranted lands, on the east side by Phineas Hutchins, and on the west side by the representatives of Dudley Stone."

To this action the defendant pleaded that, on the 3rd December 1796, by a certain deed of sale or instrument in writing duly made and executed before Lukin and Delisle, Public Notaries, and bearing date the same day and year, Patrick Murray, Esquire, the then seignior of the seigniority of Argenteuil, did give, grant and concede to one Jedediah Lane, Junior, his heirs and assigns, the above described lots of land, and that the said Patrick Murray did, in and by the said deed of sale or instrument in writing, resign, give up, quit and release to the said Jedediah Lane, his heirs and assigns for ever, all the right and pretension which he might have, as to any mutation or alienation fine, under the description of *lods et ventes*, *retrait* or otherwise, and also the toll commonly called *banalité*, and in general every other right and pretension as seignior over his *terre-tenant*, except the quit rent therein reserved, to have and to hold the above granted and described premises, with the appurtenances, rights and privileges, unto the said Jedediah Lane, his heirs and assigns, for their own proper use, benefit and behoof for ever, and the said grant or conveyance of the said tracts or parcels of lands, mentioned or described in the said deed of sale or instrument, was made in consideration of the sum of fifteen hundred Spanish silver dollars, which the said Jedediah Lane paid to the said Patrick Murray before the execution of the said deed of sale, and also for and in consideration of an annual quit rent of one half penny for every forty acres of land contained in the said deed of sale, which the said Jedediah Lane, for himself, his heirs and assigns, did, in and by the said deed of sale, covenant, promise and agree to pay to the said Patrick Murray, on the 11th day of November of every year, at the manor or seigniorial house of the Seigniority of Argenteuil.

And the said defendant averred that the said two lots or tracts of land, mentioned in the declaration of the said plaintiff, had been regularly transferred, conveyed and made over to him the said defendant, and that he the said defendant held the same under and by virtue of the said deed of sale or instrument in writing from the said Patrick Murray to the said Jedediah Lane, with all the privileges and exemptions therein mentioned, contained and set forth; and that the same was not liable to the payment of any *lods et ventes* or *cens et rentes*, or any rent whatever, other than the said quit rent of one half penny for every forty acres of land; and lastly that he the defendant had always been ready and willing to pay to the said plaintiff the said quit rent of one half penny for every forty acres of land on the said two lots of land mentioned and described in the declaration of the said plaintiff, and had repeatedly offered and tendered the same to the said plaintiff.

The plaintiff replied that the said instrument mentioned in the said plea of the said defendant was null and void, the said Patrick Murray, Esquire, as seignior as aforesaid, having no power and being wholly incompetent by law to make and enter into the said deed of sale; that he the said Patrick Murray, as the seignior as aforesaid, could not dispose of, or divest himself of any part of the said seigniority of Argenteuil, in an uncultivated state (*en bois debout*), for any sum or sums of money, being bound by the laws of the country to grant and concede the same for an annual ground rent (*à titre de cens et rentes seigneuriales*), and for the ordinary and usual seigniorial rights, profits and issues; that he could not, by any act, deed or instrument in writing, change the tenure of the said seigniority or any part or parcel thereof, or resign, give

up, quit and release his pretensions as seignior of the said seignior of Argenteuil, to any mutation or alienation fine, under the description of *lods et ventes, retrait* or otherwise, or to the toll commonly called *banalité*, or to any other right or pretensions as seignior as aforesaid, contrary to the positive law of the land.

That even admitting that the said pretended acts, deeds or instruments in writing were legal, valid and binding in law (which the said plaintiff did not admit, but, on the contrary, wholly denied), he the said plaintiff ought to have and maintain his action and demand aforesaid, because he said that, on the 19th day of March 1807, the said seignior of Argenteuil was seized and taken in execution by the sheriff of the district of Montreal, under and by virtue of a writ of execution issued out of the Court of King's Bench at Montreal, at the suit of the said plaintiff against the lands and tenements of the said Patrick Murray, Esquire, James Murray, Esquire, and Elizabeth Smith, jointly and severally, as belonging to the said James Murray, including all and every the tracts and parcels of land mentioned and described in the said plea of the said defendant; which said seignior was afterwards, on the 21st November 1807, by the said sheriff sold and adjudged to him the said plaintiff.

And the said plaintiff, without admitting the legality of the said acts, deeds or instruments in writing, or of either of them, averred that the said seignior of Argenteuil having been sold (*décritée*) by the said sheriff, including all and every the tracts and parcels of land mentioned and described in the said acts, deeds or instruments in writing, and in the said plea of the said defendant, with the right of *cens et rentes, lods et ventes, retrait*, reversions and all other seigniorial rights and dues whatsoever. in, upon and out of all and singular the lands, tenements and hereditaments therein granted, sold or conceded, without exception or reserve, had cleared and done away (*purgé*) every right, claim, demand, mortgage or exemption which the said defendant, or any other person, might or could have claimed, under and by virtue of the said acts, deeds or instruments in writing, and particularly the said deed of sale or instrument in writing of the said Patrick Murray, Esquire, to the said Jedediah Lane, Junior.

MONDAY, the 20th day of April 1818.

Present :

The Honorable Chief Justice MONK,

“ Mr. Justice REID.

No.

SIR JOHN JOHNSON,
Plaintiff,

vs.

JOHN S. HUTCHINS,
Defendant.

The Court having finally heard the parties by their counsel upon the evidence and titles produced, and in consequence of the interlocutory of the 18th October 1816, it

is considered that the said plaintiff do recover from the defendant the *cens et rentes*, at the rate of three bushels of wheat and five shillings in money for every ninety superficial acres due upon the lot of land held by the defendant, as his property, in the seigniory of Argenteuil, and described in the title exhibited by the said defendant, as making altogether "one hundred and ninety-six acres, two quarters and twenty-six rods, superficial measure, bounded in front by the North River, and in the rear by unconceded lands," to wit :

The sum of forty pounds eight shillings for arrears of the said *cens et rentes*, on the said lots of land, from the 21st day of November 1807, the day of the sale and adjudication of the seigniory of Argenteuil to the plaintiff by the sheriff, and also that the plaintiff do recover from the said defendant the sum of three shillings and two pence half a penny, the fine imposed by law for the non-exhibition of his titles to the said plaintiff as his seignior, the whole with costs.

(True copy)

(Signed)

MONK & MORROGH.

Prothy.

No. 112.

Judgment Court of Appeals, Sir J. Johnson vs. Hutchins.

PROVINCE OF
LOWER CANADA. }

COURT OF APPEALS.

THE 20TH JANUARY, 1821.

JOHN S. HUTCHINS,

Appellant ; and

SIR JOHN JOHNSON, Baronet,

Respondent.

The parties by their counsel having been heard, it is by this court considered and adjudged that the judgment of the court of King's Bench for the district of Montreal in this cause, of the twentieth day of April in the year one thousand eight hundred and eighteen, be and the same is hereby reversed in so far as the same relates to the *rente* therein mentioned, at the rate of three bushels of wheat and five shillings in money for every ninety superficial acres of land, and thereupon, by this court, it is further considered and adjudged, that the annual quit rent of one half penny for every forty acres of land contained in the deed or instrument of writing, made and executed before Lukin and Delisle, public notaries, on the third day of December, in the year of our Lord one thousand seven hundred and ninety-six,

by and between Patrick Murray, then seignior of the seignior of Argenteuil, and Jedediah Lane, junior, was and is by law *cens*, and as such, a recognition that the said land was and is held *en roture* of the seignior of the said seignior of Argenteuil for the time being, according to law; and in consequence thereof, it is, by the consideration of this court, adjudged that the appellant in this action do pay to the respondent therein one shilling, being the *cens* so due upon the lot of land held by the said appellant and in the declaration in this cause fyled described, and thereon accrued between the twenty-first day of November, one thousand eight hundred and seven, and the sixteenth day of January, one thousand eight hundred and thirteen, with the further sum of four pounds two shillings and six pence, being the amount of *loids et ventes* due and owing to the said respondent by the said appellant's acquisition of the said lot of land by deed passed before Lukin and Desautel, notaries public, on the third day of June, one thousand eight hundred and thirteen, with costs as well of this court as of the court below, reserving to the said respondent all other his lawful recourse for any other *loids et ventes* or other seigniorial rights which may legally be due and owing by the said appellant to the said respondent for or by reason of his said acquisition of the said lot of land, or be legally due or owing or charged upon the said lot of land in any way whatever.

And it is ordered that the record be remitted to the court below.

By the court,

(True copy of a copy.)

(Signed)

MONK & MORROGH,
Prothy.

No. 113.

Judgment of the Court of King's Bench, Montreal, in the case of McCallum vs. Grey.

PROVINCE OF LOWER CANADA, }

COURT OF KING'S BENCH.

DISTRICT OF MONREAL. }

Friday, the eighteenth day of April, one thousand eight hundred and twenty-eight.

Present :

The honorable CHIEF JUSTICE REID,

" " MR. JUSTICE FOUCHER,

" " MR. JUSTICE UNIACKE.

JAMES MCCALLUM, of the city of Quebec, in the district of Quebec, in the Province of Lower Canada, Esquire,
Plaintiff;

vs.

WILLIAM GREY, of the seignior of St. James, heretofore part of the Township of Sherrington, in the district of Montreal, yeoman,

Defendant; and

JANET MCCALLUM, of the city of Quebec, widow of the late James McCallum, deceased, and others,

Plaintiff, by *Reprise d'instance*.

The court having heard the parties by their counsel, examined the proceedings and the evidence by them respectively adduced, and it appearing to this court that the defendant,

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William Grey, had been by the late James McCallum, heretofore plaintiff in this cause, solicited and induced to occupy and possess the lots of land in question, and to cultivate and improve the same, under a promise on the part of the said late James McCallum, that he would give and grant to the said William Grey, and to his heirs, a good and sufficient title and deed of conveyance of the said lot of land, but that the terms and conditions upon which said title and deed of conveyance was to be made and given had not been proposed by the said late James McCallum, nor any stipulation had by and between the parties in regard thereof; and it further appearing that the said William Grey did, in good faith and under such assurance on the part of the said late James McCallum, enter upon and take possession of the said lots of land, and hath from and since the year one thousand eight hundred and nineteen, with the knowledge and consent of the said late James McCallum, held and occupied the same, and hath made considerable improvements thereon; and considering that, by the laws, usages and custom of this Province, and in order to facilitate and encourage the settling and clearing the waste lands held in *fief* and seignior therein, every subject of His Majesty is entitled to demand and obtain, from every or any seignior holding waste and ungranted lands in his seignior, a lot or concession of a portion of said waste and ungranted lands, to be by every such subject, his heirs and assigns, held and possessed as his and their own proper estate, for ever, upon the condition of cultivating and improving the same, and of paying and allowing to every such seignior the reasonable, usual and ordinary rents, dues, profits and acknowledgments, which, by the feudal tenure in force in this Province, are paid, made and allowed to such seignior by their tenants or *constitaires*, for all such and similar lots of land; the said James McCallum, therefore, as seignior of the said seignior of St. James, could not, nor can the plaintiffs by *Reprise d'instance* his legal representatives, maintain the present action to eject and put out the said William Grey from the possession and occupation so by him had and obtained of the said lots of land, but that the said William Grey, under and by virtue of the consent and promise aforesaid of the said late James McCallum, and by the possession and occupation aforesaid of him the said William Grey, so had and held, he the said William Grey, did acquire, and now hath a right to retain and possess the said lots of land in the said seignior of St. James, and to have and obtain from the said plaintiffs by *Reprise d'instance*, or other legal representatives of the said late James McCallum, a good and sufficient title and deed of conveyance of the said lot of land to him the said William Grey, his heirs and assigns, on condition of paying and allowing to the said plaintiffs by *Reprise d'instance*, or legal representatives of the said late James McCallum, being seigniors and proprietors of the said seignior of St. James, the reasonable, usual and ordinary rents, dues, profits and acknowledgments, which, by law, the said plaintiffs by *Reprise d'instance*, or other the legal representatives of the said late James McCallum, as seigniors and proprietors as aforesaid, are or may be entitled to claim, demand and have, as the legal consideration for the said lots of land; and it is therefore considered and adjudged that the present action be dismissed with costs to the said William Grey, saving to the said plaintiffs by *Reprise d'instance* their further recourse as they may be advised.

(True copy.)

(Signed)

MONK & MORROGH, P. K. B.

N^o 114.*Proceedings and Judgments in the King's Bench, Montreal, in case Guichard vs. Jones.*

A.

DISTRICT
OF
MONTREAL. }

KING'S BENCH.

June Term 1828.

HENRIETTE GUICHAUD & al.,

Plaintiffs,

vs.

JOHN JONES,

Defendant.

Henriette Guichaud, of the city of Quebec, in the county and district of Quebec, widow of the late honorable Thomas Dunn, deceased, in his lifetime of the city of Quebec, Esquire, a member of His Majesty's Legislative and Executive Councils for the Province of Lower Canada, and one of the judges of His Majesty's Court of King's Bench for the district of Quebec, in the said province, as *commune en biens* with the said late Thomas Dunn, and Thomas Dunn and William Dunn, of the said city of Quebec, Esquires, two of the sons of the said Thomas Dunn, issue of his marriage with the said Henriette Guichaud, two of the universal legatees of the said late Thomas Dunn, under and by virtue of his last will and testament and codicils thereto subjoined;

And Margueret Bell, of Quebec aforesaid, widow of the late Robert Dunn, deceased, in his lifetime of Quebec aforesaid, Esquire, tutrix in due form of law appointed to Mary, Henrietta, Margaret and Ann Catherine, her minor daughters, issue of the marriage between her and the said late Robert Dunn, and heiresses at law of the said late Robert Dunn, the said late Robert Dunn being together with the said Thomas Dunn and William Dunn, universal legatees of the said late Thomas Dunn, under and by virtue of the last will and testament aforesaid, complain of John Jones, of the city of Montreal, in the district of Montreal, Esquire.

For that whereas theretofore, to wit: on the 31st day of August, which was in the year 1796, at Missiskoui Bay, in the said district of Montreal, in and by a certain deed of sale and concession, bearing date the day and year aforesaid, at Missiskoui Bay aforesaid, by and between the said late Thomas Dunn, of the one part, and one Brewer Dodge (by the name and description of Brewer Dodge, residing on the said seignior of St. Armand), of the other part, the said late Thomas Dunn, for and in consideration of the sum of twenty pounds current money of the said province, did give, grant and concede to the said Brewer Dodge, present and accepting thereof for himself and to his heirs or assigns all that half lot or parcel of land lying within the said seignior of St.

Armand, and northward to the line of forty-five degrees of north latitude marked forty-one E, the west end of the said lot on a plan exhibited to the said Brewer Dodge, previous to the execution of the said deed, the said lot, piece or parcel of land containing one hundred and five superficial acres.

And the said Brewer Dodge, in consideration of the grant aforesaid, and other the covenants in the said deed of sale seth forth and contained, did, in and by the said deed of sale, covenant, promise, grant and agree to and with the said late Thomas Dunn, his heirs, executors, administrators and assigns, in consideration of the grant above mentioned, that he the said Brewer Dodge, his heirs and assigns, should well and truly pay or cause to be paid to the said late Thomas Dunn, his heirs, executors, administrators and assigns, the said principal sum of twenty pounds, on or before the 1st day of May 1804, with interest thereon from the 1st day of May 1799, at the rate of six per cent per annum each year.

And the said Brewer Dodge, for himself, his heirs, executors, administrators and assigns, did, in and by the said deed of sale, covenant, promise and agree to and with the said late Thomas Dunn, his heirs and assigns, that he the said Brewer Dodge, his heirs and assigns, should and would, yearly and every year, well and truly pay or cause to be paid to the said late Thomas Dunn, his heirs and assigns, the sum of one shilling lawful money of this province, for quit rent for the said granted piece or parcel of land, the first payment thereof to be made out the 1st day of May 1800, and so to continue annually for ever; and for the better securing the payment of the said principal sum of twenty pounds and interests as aforesaid, together with the said quit rent unto the said Thomas Dunn, his heirs and assigns in manner aforesaid, the said Brewer Dodge did, in and by the said deed of sale, specially charge the said tract, piece or parcel of land hereinbefore mentioned, together with all the buildings and improvements to be made thereon thereafter.

And the said late Thomas Dunn for himself, his heirs and assigns, for the consideration above mentioned, and other the considerations in the said deed stipulated on the part of the said Brewer Dodge, did, in and by the said deed, resign, give up, quit and release to the said Brewer Dodge, his heirs and assigns for ever, all the rights and pretension which he the said late Thomas Dunn had or might have as seignior of the fief and seignior of St. Armand, to any mutation or alienation fine under the description of *lods et ventes* or otherwise, and also to the toll commonly called *banalité*, and in general every other right and pretension as seignior over his *terre tenant*, except the said quit rent of one shilling per annum.

All which in and by the said deed or instrument in writing, executed under the hands and seals of the said parties thereto, and afterwards deposited of record by the said parties in the office of Chaboillez, Public Notary, to have equal force as if the said deed had been passed by him, whereof the said plaintiffs bring here into court a notarial copy, reference being thereunto had, will more fully appear.

And the said plaintiffs further say that the said Brewer Dodge did not on or before the said 1st day of May 1804, pay or cause to be paid to the said late Thomas Dunn,

then living, the said sum of twenty pounds and interest as aforesaid, nor any part thereof, nor did, on or after the said 1st day of May 1800, pay to the said Thomas Dunn interest each and every year, as aforesaid; but to pay the same or cause the same to be paid to the said late Thomas Dunn in his lifetime, or to the said plaintiffs in their said capacities, since his decease, as well the said Brewer Dodge, as his heirs, executors and assigns have, and each of them hath wholly refused and neglected, and the said sum of twenty pounds with interest for the same, from the 1st day of May 1799, remain wholly unpaid to the said plaintiffs in their said qualities and capacities.

And the said plaintiffs further say that the said Brewer Dodge did not, on or before the 1st day of May 1800, nor did nor hath, on the 1st day of May of each successive year since that day and year, paid the said yearly sum of one shilling for quit rent, in the said deed mentioned, to the said Dunn in his lifetime, nor, since his decease, to the said plaintiffs in their said capacities, but the said quit rent, yearly for each and every year since the said first day of May 1799, amounting in the whole to the sum of one pound nine shillings, remains wholly unpaid to the said plaintiffs in their said capacities.

And the said plaintiffs further say, that the said John Jones doth now hold and possess as proprietor thereof the said tract, piece or parcel of land, in and by the said deed of sale sold, granted and conveyed to the said Brewer Dodge, by the said late Thomas Dunn, and by law and by the said deed of sale specially charged and hypothecated towards and in favor of the said late Thomas Dunn, his heirs and assigns, for the payment of the said sum of twenty pounds and interest as aforesaid, together with the said annual quit rent, that is to say, the west half of lot number forty-one E. in the said seigniorie of Saint Armand, bounded as follows, to wit: east by the easterly half of the said lot forty-one E., north by lands in the possession of one George Barnes and the said John Jones, west by lot number thirty E. in the said seigniorie, in the possession of the said plaintiffs, on south by lot number forty E. in the possession of the said plaintiffs, whereby and by reason of all which said several premises and by law the said John Jones had become and now is liable to pay unto the said plaintiffs in their said qualities and capacities, the said sum of twenty pounds, with interest for the same from the first day of May, one thousand seven hundred and ninety-nine, until paid, together with the said quit rent from the said first day of May, one thousand seven hundred and ninety-nine, amounting to the sum of one pound nine shillings, mentioned in the said deed of sale hereinbefore in part recited, unless he choose rather to quit and deliver up the said last mentioned and described tract, piece or parcel of land and premises to be sold in due form of law for the payment of the said sum of money and interest, yet the said John Jones hath hitherto (although thereunto often requested) always refused and still refuses to pay the said sums of money with the said interest and cost, or to quit and deliver up the said tract, piece or parcel of land and premises last above described to be sold as aforesaid.

Wherefore, the said plaintiffs, in their said qualities and capacities, pray that the said John Jones, by the process of this honorable court, be compelled to be and appear in the court, here on monday, the second day of June, to answer premises, and that for the causes aforesaid, by the judgment of this honorable court, the said tract, piece or parcel of land and premises hereinbefore last described, possessed by the said John Jones as aforesaid, may be declared to be

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liable and hypothecated (*hypothéqué*) for the payment of the said sums of money and interest, and that the said John Jones, may then and there be adjudged and condemned, as *détenteur*, of the said piece or parcel of land and premises last above described, to pay to the said plaintiffs, in their said qualities and capacities, the said sum of twenty pounds with interest as aforesaid from the first day of May, one thousand seven hundred and ninety nine, together with the said quit rent from the said first day of May, one thousand seven hundred and ninety nine, amounting to the sum of one pound nine shillings, till paid, unless he the said John Jones choose rather to quit and deliver up (*délaisser*) the said last mentioned tract, piece or parcel of land and premises to be sold in due form of law, in the possession of the curator who shall be appointed to the *délaissement*, to the highest and best bidder, to the end that out of the price or purchase money and the proceeds of the sale of the said last mentioned piece or parcel of land and premises they the said plaintiffs, in their said qualities and capacities, may be paid and satisfied the said principal sum and interest and costs of this suit, or part thereof according to the sufficiency of the price, purchase money or proceeds; and further that in default of the said John Jones quitting and delivering up the said piece or parcel of land and premises, last above described within three days, from the day of the judgment in this behalf to be made and rendered in this cause, he the said John Jones shall be held to be liable for the said sum of twenty pounds, with interest for the same from the first day of May, one thousand seven hundred and ninety nine, till paid, together with the said quit rent, amounting to the sum of one pound nine shillings and costs of suit, and that execution do thereupon accordingly issue against the said John Jones for the same; the whole with costs.

Montreal, 12th May, 1828.

(Signed)

OGDEN & BUCHANAN,

For Plaintiffs.

True copy,

(Signed)

MONK & MORROGH,

Prothy.

B.

MONTREAL.—IN THE KING'S BENCH.

HENRIETTE GUICHAUD *et al.*,

Plaintiffs;

vs.

JOHN JONES,

Defendant.

And the said defendant by protestation not admitting, but on the contrary, denying all and every the allegations, matters and things in the declaration of the said plaintiffs

in this cause fyled contained, to be true in manner and form as the same are therein stated and set forth, by the undersigned his attorney comes and defends, &c., and says that the said declaration of the said plaintiffs and the matters therein contained in manner and form as the same are therein stated and set forth, are not sufficient in law for the said plaintiffs to have and maintain their aforesaid action thereof against him the said defendant, and that he the said defendant is not under any necessity, nor bound by law to answer the same, and this he is ready to verify.

Wherefore, the said defendant prays judgment, and that the said plaintiffs may be barred from having and maintaining their aforesaid action against him, and that the same may be dismissed with costs.

And the said defendant not waiving but on the contrary reserving to himself all benefit and advantage to be derived from the demurrer or *défense au fonds en droit* above pleaded to the action and declaration of the said plaintiffs for plea nevertheless or peremptory exception to the said action and declaration says: that by reason of any matter or thing in the said declaration alleged the said plaintiffs ought not to have or maintain their aforesaid action against him, because he says:

That by the laws in force in this province of Lower Canada before and on the thirty first day of August, one thousand seven hundred and ninety-six, and which laws are still in force in the said province, as well the said late Thomas Dunn, in the declaration of the said plaintiffs mentioned, as all other persons holding or possessing lands in seigniory and lordship, *à titre de fief et seigneurie* within the said province were and are bound to grant and concede the waste and unconceded lands, (*terres en bois debout et non concédées*) within the limits of their respective seigniories for and in consideration an annual quit rent *à titre de redevance* only without exacting or receiving for or by reason of such grants or concessions any sum or sums of money whatsoever:

And that as well the said late Ths. Dunn, as all other proprietors of land in fief and seigniory within the said province, were and are by the laws then and still in force in the said province, expressly precluded and prohibited from selling any waste and unconceded lands, (*terres en bois debout et non concédées*), within the limits of their respective seigniories, or granting or conceding the same on any terms or conditions other than of quit rent, *simple redevance*, under penalty of the absolute nullity of the contract or contracts of sale, grant or concession of such lands and of the restitution of the price stipulated and also of the lands so sold being re-united (*réunis de plein droit*) to the domain of His Majesty subject to the payment by the person or persons so acquiring or holding the same, his or their successors, assigns or other representatives in the possession and occupation of the said lands as proprietors into the hands of His Majesty's receiver general of his domain or other proper officer for the time being, of the annual "quit rents" "*redevance*" only which might or should be stipulated and covenanted on the occasion of such sales, grants or concessions. And the said defendant doth aver that at the time of the execution of the act or deed of the thirty-first day of August, one thousand seven hundred and ninety-six, in the declaration of the said plaintiffs mentioned, the said late Thomas Dunn was the seignior and proprietor in possession of the fief and seigniory of Saint Armand, in the district of Montreal, and that the lot

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or parcel of land in the said act or deed, and also in the said declaration mentioned and described was then part and parcel of the waste and unconceded lands (*terres en bois debout et non concédées*), of the said seigniory of Saint Amand.

That the said late Thomas Dunn hath nevertheless in and by the said act or deed, of the thirty-first day of August one thousand seven hundred and ninety-six, in the said declaration mentioned and therein partly recited and set forth, in addition to the quit rent (*redevance*) of two shillings of lawful money of this province, therein covenanted to be paid to the said Thomas Dunn, his heirs and assigns, hath burdened and subjected the said grant or concession therein contained with and to the payment of the sum of twenty pounds lawful money aforesaid as and for the consideration of the said grant or concession and hath thereby in effect taken upon himself, to sell and dispose of the said lot or parcel of land, and to exact from the said Brewer Dodge in the said act or deed named, his heirs, executors, administrators and assigns the said sum of twenty pounds, as, and for the consideration of the grant and concession therein contained. By means of all which premises and inasmuch as the said act or deed of the thirty-first day of August one thousand seven hundred and ninety-six, comprehends a sale of the lot or parcel of land therein mentioned, and described for and in consideration of the sum of twenty pounds therein mentioned, the said act or deed is and ought to be held and considered as null and void and of no effect in so far as the same comprehends a sale of the said lot or parcel of land.

And the said plaintiffs cannot by law demand or receive from the said defendant, or any other person or persons whomsoever, the said sum of twenty pounds or any part thereof or of the interest thereon, as pretended by them, or have or maintain any action whatever for the recovery of the same, founded upon the said act or deed, of the thirty-first day of August one thousand seven hundred and ninety-six. And the said defendant further saith that by the operation of the law in that behalf, the said lot or parcel of land is and ought to be held and considered as re-united (*réunis*) to the domain of His Majesty, subject to the payment by the said defendant and all other persons hereafter holding or possessing the same as proprietors into the hands of His Majesty's Receiver General of his domain, or other proper officer for the time being of the quit rent, *redevance*, covenanted and stipulated in and by the said act or deed of the thirty-first day of August one thousand seven hundred and ninety-six, and this the said defendant is ready to verify.

Wherefore, the said defendant prays judgment of the said plaintiffs, ought to have or maintain their aforesaid action against him, and that the same may be dismissed; and further that the aforesaid act or deed of the thirty-first day of August one thousand seven hundred and ninety-six, in so far as the same comprehends a sale of the lot or parcel of land therein mentioned and described, may be adjudged and declared to be null and void and of no effect, the whole with costs.

(Signed)

W. WALKER,

For defendant.

16th June, 1828.

(True copy)

(Signed)

MONK & MORROGH,

Prothy.

MONTREAL.—IN THE KING'S BENCH.

April Term, 1830.

N^o 891.HENRIETTE GUICHAUD & *al.*,

Plaintiffs,

vs.

JOHN JONES,

Defendant.

The plaintiffs, by the undersigned, their attornies, hereby make the following admissions, and consent that the same be filed in the said cause, as forming full and sufficient proof of the facts hereinafter expressed.

Firstly.—That the seigniority of Saint-Armand, in the declaration of the said plaintiffs in this cause mentioned, was granted and conceded under seigniorial tenure, *à titre de fief et seigneurie*, by the most Christian King, whilst the Province of Lower Canada was subject to his authority, and previously to the conquest of the said Province by Great Britain.

Secondly.—That by virtue of the said original grant or concession, the said fief and seigniority of Saint-Armand, from the conquest of the said Province, and until and after the day of the date of the deed specially mentioned and declared on, in the declaration of the said plaintiffs in this cause filed, was and continues to be held by seigniorial tenure, *à titre de fief et seigneurie*, of our Lord the King, according to the laws, usages and customs in force in the said Province before and at the time of the conquest thereof as aforesaid.

Thirdly.—That on the day of the date of the said deed in the declaration of the said plaintiffs recited and set forth, the late honorable Thomas Dunn therein, and also in the said declaration named, was seignior, proprietor, and in possession of the said *fief* and seigniority of Saint-Armand.

Fourthly.—That the tract of land mentioned and described as well in the said deed as in the declaration of the said plaintiffs in this cause fyled, was at the time of the execution thereof waste, uncultivated and unconceded lands, *terres en bois debout et non concédées*, of the said *fief* and seigniority of St.-Armand.

(Signed)

OGDEN & BUCHANAN,

For plaintiffs.

(True copy)

(Signed)

MONK & MORROGH,

Prothonotary.

Montreal, 1st January, 1830.

DISTRICT
OF
MONTREAL.

COURT OF KING'S BENCH.

Friday, the 18th day of February, 1831.

Present :

The Honorable JAMES REID, Chief Justice,
" " Mr. Justice PYKE,
" " Mr. Justice ROLLAND.

HENRIETTE GUICHAUD & *al.*,

Plaintiffs,

vs.

JOHN JONES,

Defendant.

The Court having heard the parties by their counsel, and examined the evidence of record in the said cause, and having deliberated thereon, it is adjudged that the lot, piece, or parcel of land mentioned and described in the declaration in this cause, in manner following, to wit:

All that half lot or parcel of land lying within the seigniority of St. Armand, and northward to the line of 45 degrees of north latitude, marked 41-E; the west end of the said lot on a plan exhibited to one Brewer Dodge, the first grantee thereof—the said lot, piece or parcel of land containing one hundred and five superficial acres, and bounded as follows, to wit: east, by the easterly half of the said lot 41-E; north, by the lands in the possession of one George Barnes and the said Defendant; west, by lot number 30-E, in the said seigniority, possessed by the plaintiffs; and south, by lot number 40-E, also in possession of the said plaintiffs,—be, and the same is hereby declared, charged and hypothecated for the payment of the sum of twenty pounds, current money of this Province, being the price of a certain sale, duly executed by and between the said late Thomas Dunn and one Brewer Dodge, before witnesses, the thirty-first day of August one thousand seven hundred and ninety-six, at Missiskoui Bay, with interest accrued or to grow due on the said sum, from the first day of May one thousand seven hundred and ninety-nine, till paid, at the rate of six per cent per annum, together with the annual quit rent of one shilling, accrued or to grow due from the first day of May one thousand seven hundred and ninety-nine, to the first day of May one thousand eight hundred and twenty-eight, amounting to the further sum of one pound and nine shillings, current money aforesaid.

It is therefore considered that the said plaintiffs, in their said qualities and capacities, do recover from the said defendant as *détenteur* of the said lot, piece or parcel of land above described, the said two sums of money amounting together to the sum of twenty-one pounds nine shillings, with interest on the said sum of twenty pounds, from the said first day of May 1799, till perfect payment and costs of suits, unless he, the said defendant, choose rather to quit and deliver up, abandon (*délaisser*) the said lot, piece or parcel of

land, to be sold in due form of law, in the possession of the curator, who shall be appointed to the *délaissement*, to the highest and best bidder, to the end that out of the proceeds of the said sale, they the said plaintiffs, in their said qualities and capacities may be paid the said principal sum, interest, quit rent, and the costs of this suit or part thereof, according to the sufficiency of the said proceeds, and that in default of the said defendant's abandoning the said piece or parcel of land within one month from the service upon him of the present judgment, execution do accordingly issue against him the said defendant, for the satisfaction of the said judgment.

(True copy)

(Signed)

MONK & MORROGH,
Prothonotary.

N^o. 115.

Proceedings and Judgment in King's Bench, in case honorable J. R. Rolland, vs. Jean Baptiste Molleur, the elder.

A.

DISTRICT OF }
MONTREAL. }

COURT OF KING'S BENCH.

Honorable J. R. ROLLAND,

Plaintiff ;

vs.

JEAN BAPTISTE MOLLEUR, the elder,

Defendant.

The honorable Jean Roch Rolland, of Montreal, in the District of Montreal, Esquire, one of the justices of this honorable court, and seignior, proprietor and possessor of the seignior of Monnoir, in the district of Montreal, plaintiff, complains of Jean Baptiste Molleur, the elder, of St. Luc, in the district of Montreal, yeoman, defendant.

For that whereas the said plaintiff is now, and for the last ten years and upwards, has been possessed as proprietor and possessor of the said seignior of Monnoir.

And whereas by a certain act of sale and concession in the french language, made and executed before Boudreau, and his colleague, notaries public, on the thirty-first day of December, one thousand eight hundred and thirty-two, the said plaintiffs acting by Joseph Trellé Franchère, Esquire, his duly authorized agent, sold, conceded and transferred to the said defendant, thereto present and accepting, and in the said deed described as a yeoman and tavern-keeper, a certain farm situate within the said seignior of Monnoir, con-

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MORROGH,
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2. Rolland, vs. Jean

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AND,

Plaintiff ;

EUR, the elder,

Defendant.

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taining five arpents in front by thirty arpents in depth more or less, bounded in front by the Queen's high-road, in rear by François Hébert and Charles Menard, joining on one side to the seigniorial line, and on the other side to Alphonse Morris, without any buildings, being the numbers one hundred and thirty-one and one hundred and thirty-two, in the third concession of the said seigniority ; also another farm situated in the said seigniority of Monnoir, containing about five arpents in front by about thirty in depth, more or less, bounded in front by the Queen's high road, in rear by Julien Allard, Piedalue, Pierre Gladu, Jean Mathe Vincelet, joining on one side to the seigniorial line and on the other side to Jean Baptiste Paquet, being the numbers one hundred and forty-six and one hundred and forty-seven, in the fourth concession of the said seigniority, which said sale and concession was so made subject to the clauses and conditions therein set forth, and amongst other things, for and in consideration, and the said land so conceded was by the said deed of concession charged to and in favor of the domain of the said seigniority of Monnoir, with an annual seigniorial rent of two *sol's* ancient currency *de cens*, and eighteen *livres*, said ancient currency, and three bushels of good merchantable wheat for each and every ninety arpents, and so in proportion as a perpetual unredeemable seigniorial ground rent, due and payable on the first day of March of each and every year, the first payment whereof to accrue and become due on the first day of March, one thousand eight hundred and thirty-four ; and the said plaintiff doth aver that the said *cens et rent's*, which accrued and became due on the said lots of land for the years one thousand eight hundred and thirty-five, one thousand eight hundred and thirty-six, one thousand eight hundred and thirty-seven, and one thousand eight hundred and thirty-eight, are wholly in arrear and unpaid, and with four *livres* ancient currency, balance due on the *cens et rentes* for the year one thousand eight hundred and thirty-four, amount to the sum of twenty-four pounds, currency, (the said wheat rent being therein included and valued at the first value of wheat at the times and place when the same became due.)

And the said plaintiff doth aver, that the defendant, although thereto often requested, hath hitherto wholly neglected and refused to pay and satisfy the said sum of money to plaintiff.

Wherefore, the plaintiff brings suit and prays that the said defendant may be adjudged and condemned to pay and satisfy to the plaintiff the said sum of twenty-four pounds, currency, with interest and costs of suit.

(Signed)

MONDELET & MEREDITH,
Attorney for Plaintiff.

(True copy.)

(Signed)

MONK & MORROGH, Prothy.

Montreal, 15th September, 1838.

B.

MONTREAL.—KING'S BENCH.

October, 1838.

The honorable J. R. ROLLAND,

Plaintiff ;

vs.

JEAN BAPTISTE MOLLEUR, the elder,

Defendant.

The defendant, without admitting the facts as alleged in the plaintiff's declaration, and averring that he paid to the plaintiff on the ninth day of March, 1835, fifty-six *livres*, old currency, and delivered to him on the tenth day of the same month ten *minots* of wheat, saith, for peremptory exception to the present action, that the same is unfounded and cannot be maintained for divers reasons to be hereafter set forth in fit time and place, among which reasons the said defendant now sets forth the following:—

At the time of the passing of the deed mentioned in the declaration fyled in this cause, the said plaintiff was and had been for a long time seignior in possession of the said seigniory of Monnoir, in the *censive* whereof the lands mentioned in the declaration are holden.

The said two lots of land before and at the time of the passing of the said deed were wild lands, forming part of the domain of the said seigniory, and had never been conceded before that time, to be holden by the payment of *cens et rentes* or other seigniorial dues, either by the plaintiff or by his predecessors, proprietors and possessors of the said seigniory.

By the law of the land, and by the original grant of the said seigniory of Monnoir, the said plaintiff was bound to concede the said two lots of land to such inhabitant or inhabitants of the country as should demand them on condition of paying the seigniorial dues, and without exacting any sum of money in consideration of such concession; and the rate of *cens* and other seigniorial dues at which the said plaintiff was bound to concede the said lands, was to be the same as that at which lands were first conceded in this country, (which is the only rate that can be legally recognized in this Province,) or, at least, at the rate at which lands were conceded *en censive* by the seigniors of this Province before the year 1711, or at least at the rate at which lands were first conceded in the said seigniory of Monnoir by the predecessors of the said plaintiff. The said defendant having applied to the said plaintiff or to his authorized agents for the purpose of obtaining a concession of the said two lots of land, which then formed part of the domain of the said seigniory, and having demanded that the same should be conceded to him according to the law of the land, they were in fact conceded to him *en censive* to be holden by the payment of certain seigniorial dues, as appears by the said deed, but an exorbitant and illegal rate exceeding the rate legally estab-

lished, and consequently subject to be reduced to the said legal rate, to which the defendant appealed and still appeals.

The rate of *cens* and seigniorial dues, usually called seigniorial *cens et rentes*, at which, by law and by the very terms of the original grant of the said seignior, the said plaintiff was bound to concede the said two lots of land to the said defendant who had demanded them as aforesaid, ought to be and is one *sol* for *cens* and one *franc*, old currency, in money, and one minot of wheat for an annual, perpetual and irredeemable seigniorial ground rent, and no more, for each ninety arpents of land conceded.

The defendant is therefore by law entitled to demand that the rate at which the said two lots of land were conceded to him by the deed aforesaid, be reduced, in conformity to the law of the land, to one *sol* for *cens*, and one *franc*, old currency, in money, and one minot of wheat for an annual, perpetual and irredeemable seigniorial ground rent for each ninety arpents of land contained in the said two lots so conceded to the said defendant by the said plaintiff; and this as well with regard to the past as for the future, the excess of the said rent, as mentioned in the said deed, being illegal and not being lawfully exigible from the said defendant.

The said plaintiff was in like manner bound by the law of the land to concede the said two lots of land to the defendant without exacting from him any sum of money in consideration of such concession, and was expressly forbidden to sell the same in any shape or under any pretext whatsoever, on pain of the nullity of such sale, and also on pain of restoring to the said defendant the sums of money which he has illegally exacted from him as a consideration for the said lands and for the sale thereof.

And whereas the said deed produced in this cause by the plaintiff himself and on which his action is founded, and which includes the contract of concession *en censive* of the said two lots of land made, as aforesaid, to the said defendant by the said plaintiff in his quality of seignor of the said seignior, also illegally includes a contract of sale of the said two lots of land unlawfully made by the said plaintiff to the said defendant, in contemplation of the said concession, for the sum of two thousand five hundred *livres*, old currency, which has been paid to the said plaintiff without being lawfully due to him, as appears by the said deed, the said defendant is by law entitled to plead the nullity of the said contract of sale to all legal intents and purposes, which nullity he pleads accordingly, and therefore prays that so much of the said deed as relates to the said sale, so illegally made by the said plaintiff, may be declared null and void and of no effect; and that, at the same time, the right of the said defendant against the said plaintiff to compel the restitution of the said sum of two thousand five hundred *livres*, old currency, with the interest and accessories thereof, may be saved to him for all intents and purposes of law.

Wherefore, the said defendant prays that for the reasons and considerations aforesaid, it may, by the judgment of the court, be adjudged and declared:

1st.—That so much of the said deed as relates to the said contract of concession *en censive* of the said two lots of land, made as aforesaid to the said defendant by the said

plaintiff, shall be maintained, but that the rate of the *cens* and of the said seigniorial, perpetual and irredeemable ground rent, mentioned in the said deed, shall be reduced to one *sol* of *cens* and one *franc*, old currency, in money, and one minot of wheat, yearly, for each ninety arpents of land in the said two lots, and this as well with regard to the past as for the future, the excess of the said rent, as mentioned in the said deed, being illegal and not being by law exigible by the said plaintiff; saving to the said defendant his recourse against the said plaintiff for what he may have heretofore overpaid on account of the said *cens* and ground rent.

2ndly.—That so much of the said deed as relates to the contract of sale of the said two lots, so illegally made as aforesaid by the said plaintiff to the said defendant, in contemplation of the concession of the said and, for the said sum of two thousand five hundred *livres*, old currency, shall, as shall also the said sale itself, be held to be null and void and of no effect to all intents and purposes of law, saving to the said defendant such recourse as he may have against the said plaintiff to compel the restitution of the said sum of two thousand five hundred *livres*, old currency, with the interest and accessories thereof.

The whole with costs against the said plaintiff.

Montreal, 4th October 1838.

(Signed)

LAFONTAINE & BERTHELOT,
Attorney for Defendant.

And without waiving the peremptory exception by him pleaded as aforesaid, but on the contrary saving to himself the full benefit thereof, the said defendant, for *défense au fonds en fait* to the present action, saith that all the allegations contained in the declaration of the said plaintiff are untrue and unfounded in fact.

Wherefore the said defendant prays that the said action may be dismissed with costs.

Montreal, 4th October 1838,

(Signed)

LAFONTAINE & BERTHELOT,
Attorney for Defendant.

And the said Jean Baptiste Molleur, the defendant in the demand in chief, becoming incidental plaintiff against the said Jean Roch Rolland, the plaintiff in the said demand in chief, and now the incidental defendant, saith :

That at the time of the passing of the said deed bearing date the 31st day of December 1832, mentioned in the declaration of the said plaintiff in chief, and passed before

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Mtre. Boudreault and his colleague, Notaries Public, the said Jean Roch Rolland was, and had then for a long time been, seignior in possession of the said seigniory of Monnoir in the *censive* whereof the said two lots of land, described in the declaration in the demand in chief, are holden.

That the said two lots of land before and at the time of the passing of the said deed were wild lands, forming part of the domain of the said seigniory, and had never before that time been conceded to be holden by the payment of seigniorial *cens et rentes*, either by the said Jean Roch Rolland, or by any of the preceding proprietors and possessors of the said seigniory.

That by the law of the land and by the very terms of the original grant of the said seigniory of Monnoir, the said Jean Roch Rolland was bound to concede the said two lots of land to such inhabitant or inhabitants of the country as should demand the same, to be holden by the payment of seigniorial dues, and without exacting any sum of money in consideration of such concession; and that the rate of *cens* and seigniorial dues at which the said Jean Roch Rolland was so bound to concede the said lots of land, was to be the same as that at which lands were first conceded *en censive* in this country, which is the only rate recognized as legal in the province, or, at least, at the rate at which lands were conceded *en censive* by the seigniors of the province before the year 1711, or at least, at the rate at which the first concessions were made in the said seigniory of Monnoir, by those who preceded the said Jean Roch Rolland as the seigniors thereof.

That the said incidental plaintiff applied to the said incidental defendant, or to his duly authorized agents, for the purpose of obtaining a concession of the said two lots of land which then formed, as aforesaid, part of the domain of the said seigniory, and having demanded that they should be conceded to him in conformity to the law of the land, they were in fact conceded to him *en censive*, to be holden by the payment of certain seigniorial dues by Joseph Trefflé Franchère, the agent thereunto duly authorized and appointed by the said incidental defendant, as appears by the declaration of the said incidental defendant, and also by the deed aforesaid, but an exorbitant and illegal rate exceeding the legal rate of the country and consequently subject to be reduced to the said legal rate, to which the said incidental plaintiff appealed and still appeals.

That the rate of *cens* and seigniorial dues, commonly called seigniorial *cens et rentes*, at which, by law and by the very terms of the original grant of the said seigniory, the said incidental defendant was bound to concede the said two lots of land to the said incidental plaintiff who had demanded them as aforesaid, was and is one *sol* for *cens* and one *franc*, old currency, in money, and one *minot* of wheat for an annual seigniorial, perpetual and irredeemable ground rent, and no more, for each ninety arpents of land conceded.

That the said incidental plaintiff is therefore entitled by law to demand that the rate at which the said two lots of land were conceded to him be reduced, according to the law of the land, to one *sol* for *cens*, and one *franc* old currency, and a *minot* of wheat for

an annual, seigniorial perpetual and irredeemable ground rent for each ninety arpents of land in the two lots of land so conceded to the said incidental plaintiff, and this as well with regard to the past as for the future, the excess of the said *cens* and of the said rent as stipulated in the said deed being illegal and not being lawfully exigible by the said incidental defendant.

That the said incidental plaintiff is therefore by law entitled to demand and recover from the said incidental defendant the excess which he has so paid him on the said *cens* and the said seigniorial rent for the year one thousand eight hundred and thirty-four, the said excess forming the sum of four pounds and ten pence of the present currency.

That the said incidental defendant was in like manner bound by the law of the land to concede the said two lots of land to the said incidental plaintiff without exacting from him any sum of money in consideration of the concession thereof, and that he was expressly forbidden to sell them to the said incidental plaintiff or to any other party, in any shape or under any pretext whatsoever, on pain of the nullity of such sale, and also on pain of making restitution to the said incidental plaintiff of the sums of money he has so illegally exacted from him as a consideration for the said lands and for the sale thereof; and that, whereas the said deed, bearing date the thirty-first day of December, one thousand eight hundred and thirty-two, produced in this cause by the said incidental defendant himself and upon which his said action is founded, and which includes the contract of concession *en censive* of the said two lots of land as aforesaid, to the incidental plaintiff, by the incidental defendant in his quality of seignior of the said seignior, illegally includes at the same time a contract of sale of the said two lands, unlawfully made by the said incidental defendant to the said incidental plaintiff, in contemplation of the said concession, for the sum of two thousand five hundred *livres*, old currency, which has been paid to the said incidental defendant, without cause, and without being due to him, as appears by the said deed, the said incidental plaintiff is by law entitled and has a right to plead the nullity of the said contract of sale to all legal intents and purposes, which nullity he hereby pleads, and is also entitled to claim from the said incidental defendant restitution of the said sum of two thousand five hundred *livres*, old currency, with the interest and accessories thereof, and therefore to demand that so much of the said deed as relates to the said sale so illegally made to him by the said incidental defendant in contemplation of the said concession be declared null and void and of no effect, and that the said incidental defendant may be held and condemned to restore and pay to him the said sum of two thousand five hundred *livres*, old currency, equal to the sum of one hundred and four pounds, three shillings and four pence of the present currency, with interest thereon from the said thirty-first day of December, one thousand eight hundred and thirty-two.

Wherefore the said incidental plaintiff, for the reasons and considerations aforesaid, prays—

Itly.—That by the judgment of the court it may be declared and adjudged, that so much of the said deed as relates to the contract of concession *en censive* of the said two

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lots of land, made as aforesaid to the said incidental plaintiff by the said incidental defendant, may be maintained, but that the rate of the *cens* and of the said seigniorial perpetual and irredeemable ground rent, stipulated in the said deed, may be reduced to one *sol* for *cens*, and one *franc* old currency, and one *minot* of wheat yearly for each ninety arpents contained in the said two lands, and this as well with regard to the past as for the future, the excess of the said *cens* and rent as stipulated in the said deed being illegal, and not being lawfully exigible by the said incidental defendant.

2ndly.—That, the said incidental defendant may accordingly by the same judgment be condemned to restore and pay to the said incidental plaintiff the said sum of four pounds and ten pence of the present currency, as the excess of the said *cens* of the said seigniorial rent for the year ended on the first day of March, one thousand eight hundred and thirty-four, which the said incidental plaintiff over paid him as aforesaid, with interest thereon from the tenth day of March, one thousand eight hundred and thirty-five.

3rdly.—That by the same judgment it may be declared and adjudged, that so much of the said deed as relates (as aforesaid) to the contract of sale of the said two lots of land, so illegally made by the said incidental defendant to the said incidental plaintiff in contemplation of the said concession, for the said sum of two thousand five hundred *livres*, old currency, equal to the said sum of one hundred and four pounds, three shillings and four pence, of the present currency, shall, as shall also the said sale itself, be held and taken to be null and void and of no effect, to all intents and purposes of law whatsoever.

4thly.—And therefore that by the same judgment, the said incidental defendant may be condemned to pay and satisfy to the said incidental plaintiff the said sum of one hundred and four pounds, three shillings and four pence, present currency, which has been, without cause and without its being due, illegally exacted and received by the said incidental defendant, from the said incidental plaintiff in consideration of the said concession, with the legal interest on the said sum, from the 31st day of December 1832, until perfect payment: the whole with costs against the said incidental defendant.

(Signed)

LAFONTAINE & BERTHELOT,

Attorney for Incidental Plaintiff.

(True copy)

(Signed)

MONK & MORROGH,

P. K. B.

Montreal, 4th October, 1838.

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C.

DISTRICT OF }
MONTREAL. }

COURT OF KING'S BENCH.

Honorable J. R. ROLLAND,

Plaintiff;

vs.

JOHN BTE. MOLLEUR, the Elder,

&

E. CONTRA,

Defendants.

And the said plaintiff protesting that all and every the allegations in his declaration in this cause fyled contained are true and founded in fact and sufficient in law to enable him the said plaintiff to have and maintain the conclusions by him in his said declaration taken, for answer to the plea by the defendant in this cause firstly pleaded, and by him styled "*exception péremptoire*" saith that all the allegations in the said plea or "*exception péremptoire*" contained are false and untrue and unfounded in fact, and are more over insufficient in law to prevent the said plaintiff from having and maintaining his said action in manner and form as by him brought, or to enable the said defendant to have and maintain the conclusions by him in his said pleading, "*exception péremptoire*," taken.

Wherefore the said plaintiff prays that the said pleading styled by the defendant "*exception péremptoire*," may be hence dismissed with costs, and further prays as in and by his declaration in this cause he hath already prayed.

(Signed)

MONDELET & MEREDITH,

Attorney for Plaintiff.

Montreal, 31st October, 1838.

And the said plaintiff without waiver of any thing in the proceeding pleading contained, but on the contrary reserving to himself all the benefit and advantage thereof, and by and under the protestation aforesaid for further answer to the said pleading by the defendant in this cause fyled and by him styled, "*exception péremptoire*," that on or about the twelfth day of March, which was in the year of our Lord, one thousand eight hundred and eighteen, by a certain deed of concession in the french language,

made and executed before Soupras and his colleague, notaries public, the honorable Sir John Johnson, Esquire, of Montreal, then being and in the said deed of concession described as being seignior of the seignior of Monnoir, to wit, of the seignior of Monnoir mentioned in the plaintiff's declaration in this cause fyled, conceded *à titre de cens et rentes foncières et non rachetables*, and subject to the seigniorial charges and conditions in the said deed of concession set forth, to John Johnson, his son, thereto present and accepting a certain piece of land within the *censive* of the said seignior of Monnoir, known as the lots numbers one hundred and thirty-one and one hundred and thirty-two, in the second division of the said seignior of Monnoir, containing six arpents more or less in front, by thirty arpents more or less in depth, and in the said deed of concession particularly described; the said two lots of land being the same identical lots of land as those designated in the plaintiff's declaration in this cause fyled under the numbers one hundred and thirty-one and one hundred and thirty-two, in the third concession of the said seignior, which piece of land was by the said deed of concession charged with an annual seigniorial rent, *cens et rentes annuelles perpétuelles et non rachetables*, of one minot of good merchantable wheat and six *livres* ancient currency in cash, for and in proportion of each thirty superficial arpents, payable on the first day of March of each and every year, under and by virtue of which deed of concession the said John Johnson enjoyed and possessed the said lots numbers one hundred and thirty-one and one hundred and thirty-two, from the day of the date of the said deed of concession until the period that the same was sold by sheriff's sale hereinafter mentioned.

And the said plaintiff doth aver that afterwards, to wit, on or about the sixteenth day of July, one thousand eight hundred and thirty-one, the honorable Lewis Gagy, then being sheriff of this district of Montreal, by virtue of a certain writ of execution issued from this honorable court, in a suit wherein the said plaintiff, as seignior of the seignior of Monnoir, was therein also plaintiff, and the said John Johnson was defendant, the said honorable Lewis Gagy did seize and take in execution the said lots of land, numbers one hundred and thirty-one and one hundred and thirty-two, and the said honorable Lewis Gagy having complied with all and every the formalities, matters and things in that behalf by law required on or about the twenty-third day of January, one thousand eight hundred and thirty-two, put up the said lots of land for sale in the usual manner, and the said plaintiff then and there became the purchaser thereof as the highest and best bidder, that is to say, of the lot number one hundred and thirty-one, at and for the price of five pounds, currency, and of the said lot number one hundred and thirty-two, at and for the price of four pounds five shillings, currency; the said purchaser, to wit, the said plaintiff then and there expressly declaring (as appears by the deeds of sale hereinafter in part recited) that he did not intend to re-unite the said lots of land to the said seignior of Monnoir, of which he was then seignior, proprietor and possessor, but to hold the same *en roture*; and by a certain deed of sale made by the said Lewis Gagy, in his said capacity, on the seventh day of February, one thousand eight hundred and thirty-two, he the said Lewis Gagy, by virtue of the said writ of execution and of his said office, and for and in consideration of the said sum of five pounds, to him paid before the execution of the said deed, and the receipt whereof was thereby acknowledged, bargained, sold and conveyed to the said honorable Jean Roch Rolland, the said lot number one hundred and thirty-one, with all and every its appurtenances, to be held by the said honble.

YOUNG UNIVERSITY LAW LIBRARY

John Roch Rolland, his heirs and assigns for ever, subject to such rents, duties and services, as the said lot number one hundred and thirty-one was subject to; and by a certain other deed of sale made and executed by the said honorable Lewis Gagy, acting by the authority of his office and of the writ aforesaid, and for and in consideration of the said sum of four pounds five shillings, currency, before the execution of the said deed, paid to the said honorable Lewis Gagy, and the receipt thereof was thereby acknowledged, bargained, sold and conveyed to the said plaintiff, for himself, his heirs and assigns, the said lot number one hundred and thirty-two, with all and every the appurtenances, under and subject to such rents, duties and services, as the said lot was subject to; and under and by virtue of the said two deeds of sale the said plaintiff enjoyed and possessed the said two lots *en roture*, and not as re-united to the said seignior of Monnoir, from the day of the date of the said adjudication thereof to him to the period at which he transferred the same to the defendant as set forth in the declaration of the plaintiff in this cause fyled.

And the said plaintiff doth further alledge, that on or about the seventeenth day of June, one thousand seven hundred and ninety-seven, the lots of land designated in the plaintiff's declaration in this cause-fyled, as lots numbers one hundred and forty-six and one hundred and forty-seven, in the fourth concession of the said seignior of Monnoir, were conceded by the said Sir John Johnson, then seignior, proprietor and possessor of the said seignior of Monnoir, to one William Radenhurst, subject to the charges, duties and servitudes in the said deed of concession thereof set forth, and more particularly subject to an annual seigniorial rent, *cens et rentes, seigneuriales, perpétuelles, annuelles et non rachetables*, two *minots* and a quarter of good merchantable wheat, and one hundred and two *so's* ancient currency, for each and every ninety acres, and so in proportion, payable on the first of March of each and every year, and that on the first day of March, of the year one thousand eight hundred and twenty-one, the arrears of *cens et rentes* and other seigniorial dues accrued and owing on the said lots of land numbers one hundred and forty-six and one hundred and forty-seven, amounted to the sum of sixty-one pounds five shillings and six pence currency, and the said sir John Johnson, in order to recover the said sum of money so due on the said lots of land, he being then seignior in possession of the said seignior of Monnoir, instituted an action returnable and returned into this honorable court on the second day of April, one thousand eight hundred and twenty-one, being number five hundred and seventy-eight, wherein the said sir John Johnson, in the declaration in the last mentioned cause fyled was described, as sir John Johnson of the city and district of Montreal, Baronet, seignior, proprietor and possessor of the seignior of Monnoir, in the district of Montreal, was plaintiff, and William Radenhurst, of the said city of Montreal, gentleman, was defendant, the said William Radenhurst being then proprietor and possessor, *détenteur actuel et concessionnaire* of the said lots of land numbers one hundred and forty-six, and one hundred and forty-seven, and such proceedings were afterwards had in the said cause that by the judgment therein rendered on the nineteenth day of April, one thousand eight hundred and twenty-one, by this honorable court, it was declared: that the court having heard the plaintiff, to wit, the said sir John Johnson by his counsel, the defendant, to wit, the said William Radenhurst, in person, and having seen the offer and consent of the said William Radenhurst, whereby he agreed to quit, abandon and give up to the said sir John Johnson, the lots of land in the said judgment described and mentioned and all his right and interest therein, that the same might be re-united to the domain of the said seignior of the

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said sir John Johnson, on condition that he the said William Radenhurst should be acquitted and discharged from the payment of the sum of sixty-one pounds five shillings and six pence, claimed by the said sir John Johnson, in the said action, as due to him for seigniorial rights on the said lots of land as stated and set forth in and by the declaration of the said sir John Johnson, and also from the costs of the present action, to wit, of the said action number 578, and the said sir John Johnson having accepted the offer so made by the said William Radenhurst, and prayed for the judgment of this honorable court thereon, it was by the said judgment of this honorable court rendered in the said cause considered and adjudged, that the said lots of land numbers one hundred and forty-six and one hundred and forty-seven, containing the said lots of land the quantity of about one hundred and eighty arpents of land more or less in superficies, which said two farms or lots of land as by the said judgment set forth were subject to the annual rent or *cens et rentes* of four and one half *minots* of wheat and ten *livres four sols*, ancient currency, should be, and the same where thereby re-united to the domains of the said seignior of the said plaintiff in the said action, and the said sir John Johnson, plaintiff in the said action, was thereby authorized to enter upon, hold, use and dispose of the said lots of land and every part thereof as his own freehold and proper estate, and the said William Radenhurst was thereby discharged and acquitted from the demand aforesaid of the said sir John Johnson, and from all costs incurred by reason thereof; and under and by virtue of the said judgment the said sir John Johnson entered upon, possessed and enjoyed the two last mentioned lots of land as his own freehold and proper estate, under the said judgment and upon the consideration therein mentioned, whilst he continued to be possessed as proprietor of the said seignior of Monnoir, and the said lots of land being so united to the domain of the said seignior, became the property of the said plaintiff as seignior thereof on his acquisition of the same with all its appurtenances, and the said plaintiff in this action possessed and enjoyed the same as proprietor thereof and as his own freehold and proper estate since he hath been possessed as proprietor thereof, that is to say, for a period of six years and upwards before the time of the sale thereof by him to defendant, as mentioned in the declaration of the said plaintiff in this cause filed.

And the said plaintiff doth aver that the costs incurred by the said Sir John Johnson in the said number five hundred and seventy-eight, against the said William Radenhurst, and from which the said William Radenhurst was exonerated and discharged as aforesaid amounted to the sum of fifteen pounds currency.

And the said plaintiff doth also aver that the amount of *cens et rentes* and other seigniorial arrears due on the said lot of land number one hundred and thirty-one, at the time of the sale thereof by the said honorable Lewis Gagy as aforesaid, was twenty pounds, which together with the costs incurred by the seignior of the said seignior in bringing the same to sale, amounted to the sum of thirty pounds currency, and that the amount of *cens et rentes* and other seigniorial arrears due on the said lot of land number one hundred and thirty-two, at the time of the said sale thereof by the said honorable Lewis Gagy as aforesaid, was a like sum of twenty pounds, which together with the costs incurred by the said plaintiff in bringing the same to sale as aforesaid, amounted to the sum of thirty pounds currency.

And the said plaintiff doth moreover allege that while he was possessed of the said lots of land numbers one hundred and thirty-one, and one hundred and thirty-two as aforesaid,

that is to say, from the twenty-third day of January one thousand eight hundred and thirty-two to the thirty-first day of December one thousand eight hundred and thirty-two, he expended divers large sums of money in improving the said last mentioned lots of land, and in making and repairing the roads as well those on the said lot of land, as those in the neighbourhood thereof and which by law had to be made or repaired by the proprietor of the two last mentioned lots of land, and the said plaintiff paid divers public and other dues and assessments wherewith the said two last mentioned lots of land were chargeable and charged amounting in all to a large sum of money, to wit, to the sum of ten pounds, and the said lots numbers one hundred and thirty-one and one hundred and thirty-two, were thereby during the period greatly enhanced in value, to wit, in a sum of money exceeding that last mentioned, and the said plaintiff doth aver that while he and his predecessors (*auteurs*) were possessed of the said lots of land numbers one hundred and forty-six and one hundred and forty-seven, that is to say, from the nineteenth day of April one thousand eight hundred and twenty-one, to the thirty-first day of December one thousand eight hundred and thirty-two, they lost the *cens et rentes* which they would have been entitled to receive had the said lots of land remained in the possession of the original or any other *censitaire*, and they expended divers large sums of money in improving the said two last mentioned lots of land, and in making divers useful ameliorations thereon or therewith connected, and for the advantage thereof, and in making and repairing the roads as well those upon the said two last mentioned lots of land as those in the neighbourhood thereof, and which by law had to be made or repaired by the proprietors of the two last mentioned lots of land, and the said plaintiff paid divers public and other dues wherewith the said two last mentioned lots of land are chargeable and charged, amounting in all to a large sum of money, to wit, to the sum of fifty pounds, and thereby the said two lots of land numbers one hundred and forty-six and one hundred and forty-seven, were during the said period greatly enhanced in value, to wit, in a sum exceeding that last mentioned.

And the said plaintiff doth moreover aver, that the rate at which the above mentioned lots of land have been conceded by the plaintiff to the defendant, doth not exceed the usual rate at which the land in the immediate neighbourhood of the above mentioned lots have been conceded, for the thirty years and upwards preceding the said concession, nor doth it exceed the rate at which the lands generally throughout the said seignior and throughout the other seigniories in this district and neighbourhood, have been conceded for the last thirty years and upwards before they were granted to the defendant in this cause.

And the said plaintiff doth lastly aver, that by reason of the premises aforesaid, and more particularly by reason of the manner in which the said four lots of land became the property of the seignior of the said seignior of Monnoir, after they had been conceded as aforesaid, and held *en censive* for many years as aforesaid, and improved and increased in value as aforesaid, the said plaintiff as seignior of the said seignior as aforesaid, had a right to sell and dispose of the same as he thought proper, and more particularly in the manner in which the same were transferred to the defendant in this cause as aforesaid.

Wherefore, the said plaintiff prays that the said peremptory exception may be hence dismissed with costs, persists in the conclusions by him in his said declaration taken, and prays as in and by his said declaration he hath already prayed.

(Signed)

MONDELET & MEREDITH, Atty. for plaintiff.

Montreal, 31st October, 1838.

And the said plaintiff without waiver to the pleadings by him already pleaded in this cause, but on the contrary reserving to himself all the benefit and advantage thereof for replication to the *défense au fonds en fait* by the said defendant in this cause fyled, saith that all the allegations in his declaration in this cause fyled contained are true and founded in fact.

Wherefore, the said plaintiff persists in the conclusions by him in his said declaration, and prays as in and by his declaration in this cause fyled he hath already prayed.

(Signed)

MONDELET & MEREDITH,

For plaintiff.

Montreal, 31st October, 1838.

And the said incidental defendant not admitting but on the contrary denying that the allegations in the said incidental demand contained are true, except so far as the same correspond and agree with the said plaintiff's declaration in the original demand in this cause fyled for peremptory exception to the said incidental demand of the said incidental plaintiff in this cause fyled, saith that on or about the twelfth day of March, which was in the year of Our Lord one thousand eight hundred and eighteen, by a certain deed of concession in the French language, made and executed before Soupras and his colleague, notaries public, the honorable Sir John Johnson, esquire, of Montreal, then being, and in the said deed of concession described as being seignior of the said seignior of Monnoir, to wit, of the seignior of Monnoir mentioned in the plaintiff's declaration in this cause fyled on the original demand, conceded à titre de cens et rentes foncières et non rachetables, and subject to the seigniorial charges and conditions in the said deed of concession set forth, to John Johnson, his son thereto present, a certain piece of land within the censive of the said seignior of Monnoir, known as the lots numbers one hundred and thirty-one and one hundred and thirty-two, in the second division of the said seignior of Monnoir, containing six arpents more or less in front, by thirty arpents more or less in depth, and in the said deed of concession particularly described, the said two lots of land being the same identical lots of land as those mentioned in the incidental demand of the incidental plaintiff and designated therein as lots numbers one hundred and thirty-one and one hundred and thirty-two in the third concession of the said seignior, which piece of land was by the said deed of concession charged with an annual seigniorial rent, *cens et rentes annuelles perpétuelles et non rachetables*, of one minot of good merchantable wheat, and six livres ancient currency per annum, for each thirty arpents of land in superficies, and so in proportion, payable on the first day of March in each and every year, under and by virtue of which deed of concession, the said John Johnson enjoyed and possessed the said lots numbers one hundred and thirty-one and one hundred and thirty-two from the day of the date of the said deed of concession until the period that the same was sold as hereinafter mentioned by sheriff's sale.

And the said incidental defendant doth aver that, on or about the 16th day of July 1831, the honorable Lewis Gugy being then sheriff of the district of Montreal, by

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virtue of a certain writ of execution issued from this honorable court, in a suit wherein the said incidental defendant in this cause as seignior of the said seigniory of Monnoir, was therein plaintiff, and the said John Johnson was defendant, the said honorable Lewis Guky did seize and take in execution the said lots of land, numbers 131 and 132, and the said honorable Lewis Guky having complied with all and every the formalities, matters and things in that behalf by law required, on or about the 23rd day of January 1832, put up the said lots of land to sale in the usual manner, and the said incidental defendant then and there became the purchaser thereof, as the highest and best bidder, that is to say, of the lot number 131, at and for the price or sum of five pounds currency, and of the said lot number 132, at and for the price and sum of four pounds five shillings currency, the said incidental defendant then and there expressly declaring, as appears by the deeds of sale hereinafter in part recited, that he did not intend to re-unite the said lots of land to the said seigniory of Monnoir of which he was then seignior, proprietor and possessor, but to hold the same *en roture*.

And by a certain deed of sale made by the said Lewis Guky in his said capacity, on the 7th day of February 1832, the said Lewis Guky, by virtue of the said writ of execution and of his said office, and for and in consideration of the said sum of five pounds currency to him paid before the execution of the said deed, and the receipt whereof was thereby acknowledged, bargained, sold and conveyed to the said honorable Jean Roch Rolland the said lot number 131, with all and every the appurtenances, to be held by the said Jean Roch Rolland, his heirs and assigns for ever, subject to such rents, duties and services as the said lot number 131 was subject to.

And by a certain other deed of sale made and executed by the said honorable Lewis Guky, acting by the authority of his office and of the writ aforesaid, and for and in consideration of the said sum of four pounds five shillings currency, before the execution of the said deed, paid to the said honorable Lewis Guky, and the receipt whereof was thereby acknowledged, bargained, sold and conveyed to the said incidental defendant for himself, his heirs and assigns, the said lot number 132, with all and every the appurtenances, under and subject to such rents, duties and services as the said lot was subject to, and under and by virtue of said deeds of sale, the said incidental defendant enjoyed and possessed the said two lots of land *en roture* and not as re-united to the said seigniory of Monnoir, from the day of the date of the adjudication thereof to him as aforesaid, to the period at which he transferred the same to the incidental plaintiff, as set forth in the declaration of the plaintiff in this cause filed respecting the original demand.

And the said incidental defendant doth aver that, on or about the 17th day of June 1797, the lots of land designated in the declaration in this cause filed in the original demand as lots numbers 146 and 147, in the fourth concession of the said seigniory of Monnoir, were conceded by the said Sir John Johnson, the then seignior, proprietor and possessor of the said seigniory of Monnoir, subject to the duties, charges and servitudes in the deed of concession thereof set forth, and more particularly subject to an annual seigniorial *cens et rentes seigneuriales, perpétuelles, annuelles et non rachetables* of two minots and a quarter of good merchantable wheat, and one hundred and two

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sols ancient currency, for each and every ninety acres, and so in proportion, payable on the 1st day of March of each and every year;

And that, on the 1st day of March 1821, the arrears of *cens et rentes* and other seigniorial dues accrued and owing on the said lots of land numbers 146 and 147, amounted to the sum of fifty-one pounds five shillings and six pence currency, and the said Sir John Johnson, in order to recover the said sum of money so due on the said lots of land, he being then seignior in possession of the said seignior of Monnoir, instituted an action returnable and returned into this honorable court, on the 2nd day of April 1821, being number 578, wherein the said Sir John Johnson, in the declaration in the last mentioned cause fyled, was described as Sir John Johnson, of the city of Montreal, in the district of Montreal, baronet, seignior, proprietor and possessor of the said seignior of Monnoir, in the district of Montreal, was plaintiff, and William Radenhurst, of the said city of Montreal, gentleman, was defendant, the said William Radenhurst then being proprietor and possessor *détenteur actuel* of the said lots of land numbers 146 and 147, and such proceedings were afterwards had in the said cause;

That, by the judgment therein rendered, on the 19th day of April 1821, by this honorable court, it was declared that the court having heard the plaintiff, to wit: the said Sir John Johnson, by his counsel; the defendant, to wit: the said William Radenhurst in person; and having seen the offer and consent of the said William Radenhurst, whereby he agreed to quit, abandon and give up to the said Sir John Johnson the lots of land in the said judgment described and mentioned, and all his interest and right therein, that the sum might be re-united to the domain of the said seignior of the said Sir John Johnson, on condition that he the said Sir John Johnson should and would acquit the said William Radenhurst from the payment of the sum of sixty-one pounds five shillings and six pence currency, claimed by the said Sir John Johnson in the said action as due to him for seigniorial rights on the said lots of land, as stated and set forth in and by the declaration of the said Sir John Johnson, and also from the costs of the said action.

And the said Sir John Johnson having accepted the offer so made by the said William Radenhurst, and prayed for the judgment of this honorable court rendered in the said cause, considered and adjudged that the said lots of land numbers 146 and 147, containing the said lots of land the quantity of about 180 arpents more or less in superficies, which said two farms or lots of land, as by the said judgment set forth, was subject to annual rent or *cens et rentes* of four and a half minots of wheat and ten *livres* four *sols* ancient currency, should be and the same thereby were re-united to the said seignior of Monnoir.

And the said Sir John Johnson, plaintiff in the said action, was thereby authorized to enter upon, hold, use, occupy and possess and dispose of the said lots of land and of every part thereof, as his own freehold and proper estate, and the said William Radenhurst was thereby discharged and acquitted from the demand aforesaid of the said Sir John Johnson, and from all costs incurred by reason thereof, and under and by virtue of the said judgment the said Sir John Johnson entered upon, possessed and enjoyed the two last mentioned lots of land as his own freehold and proper estate under

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the said judgment, whilst he continued to be possessed as proprietor of the said seigniory of Monnoir, that is to say, until the 9th day of September 1826, when the said incidental defendant became possessed thereof as having acquired the seigniory.

And the said incidental defendant possessed and enjoyed the same as proprietor thereof, that is to say, for a period of six years and upwards before the time of the sale thereof by him to the incidental plaintiff, as mentioned in the declaration in the original demand in this cause fyled.

And the incidental defendant doth aver that the costs incurred by the said Sir John Johnson, in the said cause number 578, against the said William Radenhurst, and from which the said William Radenhurst was exonerated and discharged, as aforesaid, amounted to the sum of fifteen pounds currency.

And the said incidental defendant doth also aver that the amount of *cens et rentes* and other seigniorial arrears due on the said lot numer 131, at the time of the sale thereof by the honorable Lewis Gagy as aforesaid, together with the costs incurred by the seignior of the said seigniory in bringing the same to sale, amounted to the sum of thirty pounds currency, and the *cens et rentes* and other seigniorial arrears due on the said lot of land number 132 at the time of the sale of the said lot by the said honorable Lewis Gagy as aforesaid, together with the costs incurred by the said honorable Jean Roch Rolland in bringing the same to sale as aforesaid, amounted to the sum of thirty pounds currency.

And the said incidental defendant doth moreover allege, that while he was so possessed of the said lots of land numbers one hundred and thirty-one and one hundred and thirty-two, that is to say, from the twenty-third day of January one thousand eight hundred and thirty-two, to the thirty-first day of December one thousand eight hundred and thirty-two, he expended divers large sums of money in improving the said two last mentioned lots of land, and in making and repairing the roads, as well those on the said lot of land as those in the neighbourhood thereof, and which, by law, had to be made and repaired by the proprietor of the two last mentioned lots of land, and the said incidental defendant paid divers public and other dues and assessments wherewith the said two last mentioned lots of land are chargeable and charged, amounting in all to a large sum of money, to wit, to the sum of ten pounds, and the said two last mentioned lots of land numbers one hundred and thirty-one and one hundred and thirty-two, were thereby, during the said period, greatly enhanced in value, to wit, in a sum of money exceeding that last mentioned.

And the said incidental defendant doth aver, that while he and his predecessors (*auteurs*) were possessed of the said lots of land numbers one hundred and forty-six and one hundred and forty-seven, that is to say, from the nineteenth day of April one thousand eight hundred and twenty-one, to the thirty-first day of December one thousand eight hundred and thirty-two, they lost the *cens et rentes*, which they would have been entitled to receive had the said lots of land remained in the possession of the original or other *censitaire*; they expended divers large sums of money in improving the said two last mentioned lots of land, and in making divers useful ameliorations thereon and therewith connected, and for the advantage thereof and in making and repairing the roads, as well those upon the two last

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mentioned lot of land as those in the neighbourhood thereof, and which, by law, had to be made and repaired by the proprietors of the two last mentioned lots of land, and the said incidental defendant paid divers public and other dues and assessments wherewith the two last mentioned lots of land are charged, amounting in all to a large sum of money, to wit, to a sum exceeding fifty pounds currency, and thereby the said two last mentioned lots of land numbers one hundred and forty-six and one hundred and forty-seven, were, during the said period, greatly enhanced in value, to wit, in a sum of money exceeding that last mentioned.

And the said incidental defendant doth moreover aver, that the rate at which the above four mentioned lots of land have been conceded by the said incidental defendant to the said incidental plaintiff, doth not exceed the usual rate at which the lands in the immediate neighbourhood of the above mentioned lots have been conceded for the thirty years and upwards preceding the date of the said concession, of the said four lots; nor doth it exceed the rate at which the lands in the other seigniories in this district and province, have usually and generally been conceded for the last thirty years and upwards preceding the date of the said concession, by the said incidental defendant to the said incidental plaintiff.

And the said incidental defendant doth moreover and lastly aver that by reason of the premises aforesaid, and more particularly by reason of the manner in which the said four lots of land became the property of the seignior of the said seignior of Monnoir after they had been conceded as aforesaid, and held *en censive* for many years aforesaid, and improved and increased in value aforesaid, the said incidental defendant as seignior of the said seignior as aforesaid, had a right to sell and dispose of the same as he thought proper, and more particularly in the manner in which the same were transferred to the incidental plaintiff in this cause aforesaid.

Wherefore the said incidental defendant prays that the said incidental demand may be hence dismissed with costs.

(Signed)

MONDELET & MEREDITH,

Attorney for plaintiff, and incidental defendant.

Montreal, 31st October, 1838.

And the said incidental defendant without waiver of the preceding peremptory exception by him pleaded to the incidental demand of the said Jean-Baptiste Molleur the elder, in this cause fyled, but on the contrary reserving to himself all the benefit and advantage thereof for *défense au fonds en fait*, to the said incidental demand saith, that all the allegations therein contained, except so far as they correspond and agree with the plaintiff's declaration in this cause fyled, are false and untrue, and unfounded in fact.

Wherefore the said incidental plaintiff prays, that the said incidental demand may be hence dismissed with costs.

(Signed)

MONDELET & MEREDITH,

Attorney for plaintiff, and incidental defendant.

(True copy)

(Signed)

MONK & MORROGH, Prothy.

Montreal, 31st October, 1838.

(Translation.)

DISTRICT
OF
MONTREAL. }

IN THE KING'S BENCH.

MONDAY, the 15th day of June, 1840.

Present :

The Honorable Mr. Justice PYKE,
Mr. Justice GALE.

N^o 2276.

The Honorable JEAN R. ROLLAND,
Plaintiff,

vs.

JEAN-BAPTISTE MOLLEUR,
Defendant,

and

The said JEAN-BAPTISTE MOLLEUR,
Incidental Plaintiff,

vs.

The said Honorable JEAN R. ROLLAND,
Incidental Defendant.

The Court after having heard the parties by their advocates, as well upon the demand in chief as upon the incidental demand, and examined the record, exhibits, evidence and admissions of the said parties, and having maturely deliberated thereon, rendering judgment in the first place on the demand in chief, condemns the defendant to pay to the plaintiff the sum of twenty-four pounds current money of the province of Lower Canada, for four years *cens et rentes* due on the lots of land mentioned and described in the declaration in this cause, from the first day of March one thousand eight hundred and thirty-five, to the first day of March one thousand eight hundred and thirty-eight, and the balance due on the *cens et rentes* for the year one thousand eight hundred and thirty-four ; with interest on the said sum of twenty-four pounds, from the twenty-fifth day of September one thousand eight hundred and thirty-eight, the day of the service of the writ of summons in this cause, until actual payment, and costs.

And the Court rendering judgment upon the incidental demand fyled by the said Jean-Bte. Molleur, in this cause, hath dismissed and dismisseth the same, with costs.

(True copy)

(Signed)

MONK & MORROGH, Prothy.

N^o 116.

Proceedings and Judgment in the King's Bench, Montreal, in the case of Hamilton & al. vs. Lamoureux, and reasons for such judgment given by the Honorable Mr. Justice Pyke.

A.

MONTREAL.—KING'S BENCH.

October Term, 1840.

GEORGE BURTON HAMILTON & al.,

Plaintiffs,

vs.

MICHEL LAMOUREUX,

Defendant.

George Burton Hamilton, formerly of London, in the county of Middlesex, and now of Clichusford, in the county of Essex, in England, clerk; William Henry King, of London aforesaid, esquire, and Edme Henry, of Laprairie, in the district of Montreal, esquire, executors of the last will and testament, and universal fiduciary legatees of of the late Napier Christie Burton, in his lifetime of London aforesaid, a general in Her Majesty's Forces, plaintiffs;

Complain of Michel Lamoureux, of the parish Ste. Marguerite de Blairfindie, in the district of Montreal, yeoman, defendant :

For that, whereas the said late Napier Christie Burton was, at the time of his decease hereafter mentioned, and for thirty-five years immediately preceding his decease, seignior, proprietor and possessor of the seigniories of Bleury, Sabrevois, Noyan, De Léry, Lacolle and Repentigny, in the district of Montreal ;

And, whereas the said late late Napier Christie Burton departed this life on or about the 1st day of January 1835, having, previously to his decease, made and executed his last will and testament, according to the forms of the laws of England, on the 20th day of December 1834, with a codicil thereto annexed, dated the 23rd day of December 1840, to wit, at London aforesaid, where the said testator had his domicile for many years previously to his death, by which last will and testament and codicil the said late Napier Christie Burton, after providing for his funeral expenses, the payment of his debts and of divers particular legacies, did give and bequeath, among other things in the said will specified, all things and monies due to him in his own right, and all things and sums of money due to him as personal representative and heir at law of his late father general Gabriel Christie, esquire, or otherwise, unto the said plaintiffs, the executors of said will, and the survivor of them, and the executors of such survivor, upon the trusts in the said will contained ;

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And the said late Napier Christie Burton, in and by his said last will and testament, and by the said codicil thereto annexed, gave and bequeathed all his estates and seignories, situate in the province of Lower Canada, to the plaintiffs, their heirs and assigns, for the trusts, intents and purposes contained and set forth in the said last will and testament and codicil annexed, and in and by the said will nominated and appointed the said plaintiffs to be executors thereof, which said last will and testament and codicil were afterwards, to wit, on the 9th day of April 1835, duly proved in the prerogative court of the archbishop of Canterbury, at London, according to law, of which last will and testament and codicil the plaintiffs bring here into court a copy to form part of these presents.

And the said plaintiffs, in their said capacities, say that the said plaintiffs, have taken upon themselves the burden of the execution of the said will and testament and codicil, and have taken possession of all the estates and property of the said late Napier Christie Burton, in pursuance of and for the purposes set forth in the said will and testament, and thereof are now in possession.

And the said plaintiffs, in their said capacities, further aver that the trusts in the said will mentioned have not yet been fully accomplished, and that they have not yet been able to fulfil the duties which were imposed upon them by the said will and by the laws of England, where the said will was made and the said testator had his domicile, the powers granted to the said plaintiffs, or executors of the said will, continue in full force until all the said trusts are accomplished and the said duties fulfilled.

And whereas the said late general Gabriel Christie, on the 17th day of September 1796 and for many years previously and subsequently thereto was possessed as seignior, proprietor and possessor of the seigniorie of De Léry, ... district of Montreal.

And the said plaintiffs, in their said capacity, aver that the said late Gabriel Christie, by a certain deed of concession in the French language, made and executed before Delisle and his colleague, Notaries Public, on the 17th of September 1796, granted and conceded *à titre de cens et rentes seigneuriales, foncières et non rachetables* to Jean Baptiste Bigonnesse dit Beaucaire, of St. Joseph de Chambly, thereto present and accepting, a lot of land situate in the said seigniorie of De Léry, containing two arpents in front by twenty-eight in depth, making half of lot number 36, of the south side of the said seigniorie, containing fifty-six arpents of land in superficies, bounded in front, to the north-east, by the diagonal line of division between the barony of Longueuil and the said seigniorie, in depth to the south-west by the second concession, to the south-east by number 35, and to the north-west by the other half of the said lot number 36, to the north-west to the depth of the said concession, to the south-east by the little River Montreal;

And by the said deed of concession the said half lot of land was and is charged, to and in favour of the *domaine* of the said seigniorie of De Léry, with an annual seigniorial *rente* of nineteen *livres* twelve *sols* *tournois*, and also with one *sol* *tournois* of *cens* for every arpent in front upon the whole depth of the said piece of land so conceded, the whole as an annual seigniorial rent, *cens et rentes seigneuriales*, payable on the 11th

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day of Nov. of each and every year, the first payment whereof to become due on the 11th day of November then next; and it was, in and by the said seigniorial deed of concession, agreed that the said seigniorial rent, *cens et rentes*, should not be affected by any depreciation in the currency of the country, as is fully set forth in the said deed of concession, and the said half lot of land was further charged with the *droit de corvée*, as explained in the said concession deed, with the right on the part of the seignior to exact one Spanish dollar in lieu of the said *droit de corvée* each and every year, the said *droit de corvée* or Spanish dollar, at the option of the seignior, to be for each one hundred and twelve arpents conceded, and so in proportion; and the said Jean Baptiste Bigonnesse dit Beaucaire took possession of the said lot of land, and the said half lot of land is now, and since the date of the said concession deed, has been charged with the said annual seigniorial rent, *cens et rentes*, and said *droit de corvée*, with the right of option touching the said *droit de corvée* on the part of the seignior of the said seigniority aforesaid.

And by the said deed of concession, the said Jean Baptiste Bigonnesse dit Beaucaire bound and obliged himself to pay the said annual seigniorial *cens et rentes* with the said *droit de corvée* to the seignior of the said seigniority and to his heirs and assigns in the manner and at the periods aforesaid.

And the said defendant is now and for more than one year has been possessed as proprietor of the said half lot of land, which is now bounded on one side by Théodore Béchard or representatives, and on the other side by Louis Laberge or representatives.

And the said plaintiffs, in their said capacity, aver that, on the 11th day of November 1834, twenty-nine years' arrears of the said *cens et rentes* and of the said *droit de corvée* had become due and payable on the said half lot of land so possessed by the defendant for the twenty-nine years next preceeding that time, amounting to one pound one shilling and one penny per annum, in all to the sum of thirty pounds eleven shillings and five pence; the said *droit de corvée* being therein included, and the said plaintiffs, in their said capacities, claiming in money that part of the said *droit de corvée* which is payable by the defendant as holder of the said half lot of land containing fifty-six superficial arpents; and the said plaintiffs, in their said capacities, have a right to demand and have the said sum of thirty pounds eleven shillings and five pence currency from the said defendant, as proprietor and possessor, *détenteur actuel*, of the said piece of land and premises herein mentioned, unless the said defendant had rather and do abandon and deliver up (*délaisser en justice*) the said piece of land and premises so possessed by him, to be sold as hereafter mentioned.

And the said defendant, although often requested to pay the last mentioned sum of money, hath at all times neglected and refused so to do.

Wherefore, the said plaintiffs, in their said capacities, bring suit and pray that the said piece of land herein described, possessed by the defendant, may, by the judgment of this honorable court, be declared charged, affected, hypothecated and mortgaged to and in favour of the said plaintiffs, in their said capacities, for and with the payment of the said sum of thirty pounds eleven shillings and five pence currency, with

interest and costs of suit, and that the defendant, as proprietor and possessor, *détenteur actuel*, of the last mentioned piece of land and premises, be adjudged and condemned to pay the said sum of thirty pounds eleven shillings and five pence currency, with interest and costs of suit, to the said plaintiffs, in their said capacities, unless the said defendant had rather and do, within fifteen days from the service upon him of the judgment to be rendered in this cause, abandon and deliver up (*délaisser en justice*) the said last mentioned piece of land and premises, in order that it may be sold in due course of law, and that from the proceeds of the sale thereof, the said plaintiffs, in their said capacities, be paid and satisfied the said sum of thirty pounds eleven shillings and five pence currency, with interest and cost of suit, to the payment of which costs the plaintiffs, in their said capacities, pray the defendant be personally condemned, should he contest this action, the said plaintiffs hereby reserving their recourse for the recovery of the arrears of *lods et ventes* due upon the said last mentioned piece of land, the defendant and his predecessors having at all times neglected to exhibit their title deed to the said late Napier Christie Burton and to the plaintiffs.

(Signed)

W. C. MEREDITH,

Attorney for Plaintiffs.

(True copy)

(Signed)

MONK & MORROGH,

Prothy.

Montreal, 17th July 1840.

B.

PROVINCE OF
LOWER CANADA. }

KING'S BENCH, MONTREAL.

Vacation after February Term, 1841.

GEORGE BURTON HAMILTON & al.,
Plaintiffs ;

vs.

MICHEL LAMOUREUX,
Defendant.

And the said defendant, for plea to the said action, not admitting the allegations in the said plaintiff's declaration in the said cause filed to be true, by this his *défense au fonds en droit* saith that the allegations, matters and things in the said declaration contained are insufficient in law to entitle the said plaintiffs to have and maintain their said action according to the conclusions of their said declaration.

Wherefore he prays that the said action may hence be dismissed with costs.

(Signed)

DAY & JOHNSON,
For defendant.

Montreal, 1st March, 1841.

And the said defendant, without waiver of any matter or thing by him in the said cause heretofore pleaded, not admitting any of the allegations in the said declaration contained to be true, for further plea to the said action, forthwith saith that the said lot of land in the said declaration mentioned and described, at the time of the original concession thereof by the then seignior and possessor of the said seignior, was wild and uncultivated land, *terre en bois debout*, and by the laws then and still in force in this Province, and by the grant and concession of the said seignior of DeLéry, the then seignior and proprietor of the said seignior of DeLéry was bound and obliged to concede the said lands to any person or persons inhabitants of the said province, (*habitants du pays*) who should require and demand the same, upon rent *à titre de redevance*, and without exacting or receiving any sum of money for and in consideration of such concession, the said seignior and possessor of the said seignior of DeLéry being so obliged to concede the said lands at a rate of rent, *taux de cens et de redevances seigneuriaux*, equal to and not exceeding the rate (*taux*) at and for which wild lands (*terres en bois debout*), first conceded by the seigniors (*concedées en censive*) in this country, were so conceded and which then was and still continues to be the only rate (*taux*) of rent (*cens et redevances*) known, recognized or allowed by the laws of this province.

And the said defendant saith that the rate and sum of one pound one shilling and one penny currency, per annum, for *cens et rentes*, with which the said plaintiffs allege the said lot of land to be charged to and in favor of the domain of the said seignior, far exceeds the said lawful rate of rent (*taux de cens et de redevances*) at which the said land ought by law to have been conceded as aforesaid.

And the said defendant further saith that the charge and imposition of the said last mentioned sum for annual seigniorial rent (*cens et rentes*), upon the concession of the said lot of land then being wild and uncultivated (*terre en bois debout*), was wrongful and illegal, and null and void, and the same ought to be reduced to the said rate (*taux*) at and for which wild lands (*terres en bois debout*), first conceded by the seigniors (*concedées en censive*) in this country, were so conceded.

And the said defendant saith that, long before the institution of the present action, and before the decease of the said late Napier Christie Burton, there were paid by the said defendant and his predecessors, to him the said Napier Christie Burton, and to his agents acting in that behalf, divers sums of money for *cens et rentes*, far exceeding any sum which he the said Napier Christie Burton, at the time of his decease, was or could be by law, and according to the said last mentioned rate, entitled to have and receive, by means whereof all right, demand and claim of the said Napier Christie Burton, and the said plaintiffs or his representatives, to have or receive any sum of money for arrears of *cens et rentes* accrued to the said domain of the said seignior, have become and were and are wholly satisfied, discharged and extinguished, all which he is ready to verify, when and where this honorable court shall direct.

Wherefore, the said defendant prays judgment upon his plea in this behalf, that this honorable court will adjudge and declare the imposition and charge of the sum of one pound one shilling and one penny currency, per annum, for *cens et rentes* upon the said lot of land, to be wrongful and illegal and null and void, and will reduce the same to

THE HONORABLE COURT OF COMMONS

the said rate (*taux*) at and for which the wild lands (*terres en bois debout*) first conceded by the seigniors (*concedées en censive*), were so conceded; and will further adjudge and declare that the monies so paid as aforesaid have satisfied, discharged and extinguished all right, demand and claim of the said plaintiffs for arrears of *cens et rentes* upon the said lot of land, and further prays that the said action may be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For Defendant.

Montreal, 1st March 1841.

And the said defendant without waiver of any matter or thing by him in the said cause heretofore pleaded, not admitting any of the allegations in the said declaration contained to be true, for further plea to the said action, forthwith saith: that the said lot of land in the said declaration mentioned and described, at the time of the original concession thereof by the then seignior and possessor of the said seignior of De Léry, was wild and uncultivated land (*terre en bois debout*), and by the laws then and still in force in this province, and by the title of the grant and concession of the said seignior of De Léry, the then seignior and possessor of the said seignior of De Léry was bound and obliged to concede the said land to any person or persons, inhabitants of the said province (*habitants du pays*), who should require and demand the same, upon *rente à titre de redevance*, and without exacting or receiving any sum of money for and in consideration of such concession, the said seignior and possessor of the said seignior being so obliged to concede the said land at a rate of rent (*taux de cens et de redevances seigneuriaux*), equal to and not exceeding the rate (*taux*) at and for which the wild lands (*terres en bois debout*), first conceded in the said seignior, were conceded, and which then was and still continues to be the only rate (*taux*) of rent (*cens et redevance*), with, to or for which the said land, in the said declaration mentioned, could or can by law be charged, affected or liable.

And the said defendant saith, that the rate and sum of 1 pound 1 shilling and 1 penny currency per annum for *cens et rentes*, with which the said plaintiffs allege the said lot of land to be charged to, and in favor of the domain of the said seignior, far exceeds the said lawful rate of *rente, taux de cens et redevances*, at which the said land ought by law to have been conceded as aforesaid.

And the said defendant further saith that the charge and imposition of the said last mentioned sum, for annual seigniorial rent (*cens et rentes*) upon the concession of the said lot of land, then being wild and uncultivated (*terre en bois debout*), was wrongful and illegal and null and void, and the same ought to be reduced to the said rate (*taux*) at and for which the wild lands (*terres en bois debout*) first conceded in the said seignior were so conceded.

And the said defendant saith, that long before the institution of the present action, and before the decease of the said late Napier Christie Burton, there were paid by the said

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defendant and his predecessors to him the said Napier Christie Burton, and to his agents, acting in that behalf, divers sums of money for *cens et rentes* far exceeding any sum which he the said Napier Christie Burton, at the time of his decease, was or could be by law, according to the said last mentioned rate (*taux*), entitled to have and receive, by means whereof all right, demand and claim of the said Napier Christie Burton, and of the said plaintiffs as his representatives, to have or receive any sum of money for arrears of *cens et rentes* accrued to the said *domaine* of the said seignior, have become and were and are wholly satisfied, discharged and extinguished. All which he is ready to verify when and where it may be necessary.

Wherefore, the said defendant prays judgment upon his plea in this behalf, that this honorable Court will adjudge and declare the said imposition, and charge of the sum of 1 pound 1 shilling and 1 penny currency, per annum, for *cens et rentes* upon the said lot of land, to be wrongful, unlawful and null and void, and will reduce the same to the said rate (*taux*) at, and for which the said wild lands (*terres en bois debout*), first conceded to the said seignior, were so conceded, and will further adjudge and declare, that the monies so paid as aforesaid, have satisfied, discharged and extinguished all right, demand and claim of the said plaintiffs for arrears of *cens et rentes* upon the said lot of land; and the said defendant further prays that the said action may be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For defendant.

Montreal, 1st March, 1841.

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And the said defendant without waiver of any matter or thing by him in the said cause heretofore pleaded, not admitting any of the allegations in the said declaration contained to be true, for further plea to the said action forthwith saith, that the said lot of land in the said declaration mentioned and described, at the time of the original concession thereof, by the then seignior and possessor of the said seignior of De Léry, was wild and uncultivated land (*terre en bois debout*), and that the rate and sum of 1 pound 1 shilling and 1 penny currency, per annum for *cens et rentes*, at which the said plaintiffs allege the said lot of land to be charged to and in favor of the domain of the said seignior, far exceeds the lawful rate of rent *taux de cens et de redevances*, at which the said land ought by law to have been conceded as aforesaid, and that the charge and imposition of the said sum of 1 pound 1 shilling and 1 penny currency, per annum, for annual seigniorial rent, *cens et rentes*, upon the said lot of land then being wild and uncultivated (*terre en bois debout*) as aforesaid, was and is wrongful and illegal and null and void, and the same ought to be reduced to the rate (*taux*) of rent (*cens et rente*) at which the wild lands (*terres en bois debout*) first conceded *concedées en censive* in this province were so conceded, or to the rate (*taux*) at which such lands were so conceded (*concedées en censive*), before the year 1711, or to the rate (*taux*) at which such lands were first conceded (*concedées en censive*) in the said seignior of De Léry by the then seignior thereof.

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And the said Defendant saith that long before the institution of the present action, and before the decease of the said late Napier Christie Burton, there were paid by the defendant and his predecessors, to him the said Napier Christie Burton, and to his agents acting in that capacity, divers sums of money for *cens et rentes*, far exceeding any sum which he the said Napier Christie Burton, at the time of his decease was or could be by law, and according to the said last mentioned rates (*taux*) or either of them, entitled to have and receive. By means whereof all right, demand and claim of the said Napier Christie Burton, and of the said plaintiffs as his representatives, to have or receive any sum of money for arrears of *cens et rentes* accrued to the said domain of the said seignior, have become and were and are wholly satisfied, discharged and extinguished. All which he is ready to verify when and where this Honorable Court shall direct.

Wherefore, the said defendant prays judgment upon his plea in this behalf that this honorable Court will adjudge and declare the imposition, and charge of the sum of 1 pound 1 shilling and 1 penny currency, per annum, for *cens et rentes* upon the said lot of land to be wrongful, unlawful and null and void, and will reduce the same to the said rate (*taux*) of rent (*cens et rentes*) at which the wild lands (*terres en bois debout*) first conceded, *concedées en censive* in this province were so conceded, or to the rate (*taux*) at which such lands were so conceded, *concedées en censive* before the year 1711, or to the rate (*taux*) at which such lands were first conceded (*concedées en censive*) in the said seignior of De Léry, by the then seignior thereof, and will further adjudge and declare that all the monies so paid as aforesaid have satisfied, discharged and extinguished all right, demand and claim of the said plaintiffs for arrears of *cens et rentes* upon the said lot of land, and the said defendant further prays, that the said action be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For defendant.

Montreal, 1st March, 1841.

And the said defendant, without waiver of any matter or thing by him in the said cause heretofore pleaded, not admitting any of the allegations in said declaration contained to be true, for further plea to the said action forthwith saith, that long before the institution of the present action, and before the decease of the said late Napier Christie Burton, there were paid and satisfied by the said defendant and his predecessors to the said Napier Christie Burton, and to his agents in that behalf duly authorized, and lawful *cens et rentes* which the said defendant was bound to pay, or for which the said lot of land, in the said declaration mentioned and described, was, or by law could be, holden, affected or liable to or in favor of the domain of the said seignior of De Léry; and this he is ready to verify when and where this honorable Court shall direct.

Wherefore, the said defendant prays judgment upon his plea, in this behalf if the said plaintiffs ought to have or maintain their said action against him in this behalf, and further prays that the same may be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For defendant.

Montreal, 1st March, 1841.

And the said defendant without waiver of any matter or thing, by him in the said cause, heretofore pleaded, not admitting any of the allegations in the declaration of the said plaintiffs, in the said cause fyled, to be true, for further plea to the said action, forthwith saith, that the said plaintiff cannot have or maintain their said action in manner and form as the same hath been instituted against him, because he saith, that, from and since the day of the decease of the said late Napier Christie Burton, to wit, the 1st day of January 1835, the said plaintiff have not been at any time, nor are they now possessed of the said seignior in their said capacity as seigniors and proprietors and possessors thereof, or in any other manner whatsoever, but that from and since the said 1st day of January 1835 the said seignior hath continually been and still is openly held and possessed by one William Plenderleath Christie in his own right, solely, as seignior, proprietor and possessor thereof—which the said defendant is ready to verify when and where this honorable Court shall direct.

Wherefore, the defendant prays that judgment, if the said plaintiffs ought to have and maintain their said action in manner and form as the same hath been instituted against him, and further prays that the same may be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For defendant.

Montreal, 1st March, 1841.

And the said defendant, without waiver of any matter or thing by him in the said cause heretofore pleaded for further plea to the said action, saith that he is not indebted in manner and form as the said plaintiffs, in their said declaration, have complained against him.

Wherefore, the said defendant prays that the said action may be hence dismissed with costs.

(Signed)

DAY & JOHNSON,

For Defendant.

Montreal, 1st March 1841.

(True copy)

(Signed)

MONK & MORROGH,

Prothy.

C.

DISTRICT
OF
MONTREAL.

COURT OF KING'S BENCH.

GEORGE B. HAMILTON & al.,
Plaintiffs,

vs.

MICHEL LAMOUREUX,
Defendant.

And the said plaintiffs protesting that the allegations in their declaration in this cause fyled, contained, are true, for replication to the *défense au fonds en droit* fyled in this cause by the defendant, say that the allegations in their said declaration contained are sufficient in law to entitle the said plaintiffs to have and maintain their said action according to the conclusions of their said declaration.

Wherefore, the said plaintiffs pray that the said *défense au fonds en droit* be hence dismissed with costs, and further pray as in and by their said declaration they have already prayed.

(Signed)

W. C. MEREDITH,
Attorney for Plaintiffs.

Montreal, 2nd March 1841.

And the said plaintiffs protesting as aforesaid for general answer to the pleadings by the said defendant in this cause secondly, thirdly and fourthly pleaded, say that the allegations, matters and things in the said pleadings respectively contained are false, untrue and unfounded in fact, and are moreover insufficient in law to enable him the said defendant to have and maintain the conclusions by him in his said pleading, secondly, thirdly and fourthly pleaded taken, or to prevent the said plaintiffs from having and maintaining the conclusions by them in their said declaration taken.

Wherefore, the said plaintiffs pray that the said pleadings, by the said defendant in this cause secondly, thirdly and fourthly pleaded, be hence dismissed with costs; and further pray as in and by their said declaration they already prayed.

(Signed)

W. C. MEREDITH,
Attorney for Plaintiffs.

Montreal, 2nd March 1841.

And the said plaintiffs, protesting as aforesaid, for general answer to the plea by the said defendant, fifthly pleaded in this cause, saith that the allegations, matters and things in the said plea contained, are false, untrue and unfounded in fact.

Wherefore, the said plaintiffs pray that the said, by the said defendant in this cause fifthly pleaded, be hence dismissed with costs, and further pray as in and by their said declaration they have already prayed.

(Signed)

W. C. MEREDITH,
Attorney for Plaintiffs.

Montreal, 2nd March 1841.

And the said plaintiffs, protesting as aforesaid, for general answer to the plea by the said defendant in this cause sixthly pleaded, say that the allegations, matters and things in the said plea contained, are insufficient in law to enable the said defendant to have or maintain the conclusions by him in his said plea in this cause sixthly pleaded, taken, or to prevent the said plaintiffs from having and maintaining the conclusions by them in their said declaration taken.

Wherefore, the said plaintiffs pray that the said plea, by the said defendant sixthly pleaded, be hence dismissed with costs, and further pray as in and by their said declaration they have already prayed.

(Signed)

W. C. MEREDITH,
Attorney for Plaintiffs.

Montreal, 2nd March 1841.

And the said plaintiffs, protesting as aforesaid, for replication to the plea by the said defendant in this cause lastly pleaded, say that the said defendant is indebted in manner and form as complained against him by the said plaintiffs in their said declaration.

Wherefore, the said plaintiffs persist in the conclusions by them in their said declaration taken.

(Signed)

W. C. MEREDITH,
Attorney for Plaintiffs.

Montreal, 2nd March 1841.

(True copy)

(Signed)

MONK & MORROGH,
Prothy.

DISTRICT
OF
MONTREAL.

COURT OF KING'S BENCH.

Wednesday the 2nd day of February 1842.

N^o 910.

GEORGE B. HAMILTON & al.,
Plaintiffs,

vs.

MICHEL LAMOUREUX,
Defendant.

The honorable Mr. Justice Pyke, on rendering the judgment in this cause expressed the opinion of the court in maner following :

This is an hypothecary action brought by the plaintiffs as executors of the last will of the late general Burton, and also as his universal fiduciary legatees to recover from the defendant, twenty-nine years of arrears of *cens et rentes* due upon a half lot of land containing fifty-six arpents in superficies in the seigniory of De Léry, now and for one year and upwards owned and possessed by the defendant, which arrears accrued before the death of General Burton, who, at that period 1st January 1825, and for thirty-five years preceding, was the proprietor and possessor of that seigniory.

And it is alleged, in the declaration, that the land in question was, on the 17th September 1796, by notarial deed, conceded by the late general Christie, the then proprietor of the seigniory and predecessor of general Burton, to one J. B. Bigonessé dit Beauvais, subject to an annual rent of nineteen *livres ten sols tournois*, and also one *sol tournois* for every arpent in front, the same not to be affected by any depreciation in the currency of the country, and also as a *droit de corvée*, and in lieu thereof a Spanish dollar for each one hundred and twelve arpents conceded and so in proportion, the whole payable on the 11th of November of every year; and it is averred that, on the 11th November 1834, there had accrued and were due twenty-nine years of the said annual rent, which, at £1 1s. 1d. per year, amounted to the sum of £30 11s. 5d.; and alleging that the plaintiffs have, in their said capacities, a right to demand that sum from the defendant, as the proprietor, possessor and *détenteur actuel* of the said land, unless he should prefer to abandon the same (*délaisser en justice*), and concluding hypothecarily against the defendant in the usual terms.

Plea 1st.—*Défense au fonds en droit.*

Plea 2nd.—By exception that, at the time of the concession of the land in question, it was forest land, and that, at that period and since, by the law then and still in force, and by the grant of the seigniory, the seignior was bound to grant the same upon rent *à titre de redevance*, without exacting any money for such concession, and obliged to

concede to the inhabitants at a rate of rent not exceeding that which wild lands first conceded in this country, were so conceded, and which then was and still continues to be the only rate of rent known or allowed by the laws of this province.

That the rate, in this instance, far exceeds the lawful rent at which the land ought to have been conceded, and that the rent so stipulated in the deed of concession was wrongful and illegal, and null and void, and ought to be reduced to the rate at which wild lands first conceded in this country, were so conceded.

And that, before the action and the decease of the said general Burton, the defendant and his predecessors had paid to him divers sums for *cens et rentes* far exceeding any sum to which the seignior was by the law of the land entitled, whereby all right or claim of general Burton, for any arrears of rent, have become and are satisfied and extinguished, all which he was ready to verify, &c.

And concluding that the rent demanded be declared wrongful and illegal, null and void, and be reduced to the rate at which wild lands, first conceded by the seigniors, were so conceded, and further declared that the monies so paid by the defendant, have satisfied and extinguished all right or claim of the plaintiffs for arrears of rent upon the said land, and the plaintiffs' action dismissed with costs.

The second exception, for the most part, is the same as the first, but with this variance that, by law and by his title, the seignior was bound to concede at the same rate at which wild lands, first conceded in the said seigniorship of De Léry, were so conceded, and that the rent demanded far exceeds that which by law could be so charged, and ought to be reduced accordingly; there is the same alteration of payment, and concluding as in the first exception, in so far as regards the variance noticed.

The third exception varies from the two preceding in this: that it is alleged that the rent demanded exceeds that at which by law it ought to have been conceded, and that it ought to be reduced to the rate at which wild lands first conceded in this province, were so conceded, or at the rate at which they were conceded before the year 1711, or at the rate at which such lands were first conceded in De Léry, by the then seignior thereof, payment as again alleged, and the conclusion the same as in the preceding exceptions, except in so far as regards the variance in the rate of rent.

The fourth exception is an allegation of payment of all lawful *cens et rentes*, which defendant was bound to pay, or which by law the land could be holden or liable to pay to the seignior.

The fifth exception is that the plaintiffs cannot maintain this action as they have not, since the death of general Burton on the 1st January 1835, nor are they now possessed of the said seigniorship as proprietors thereof; but that the same has been and is possessed by one Wm. Plenderleath Christie, in his own right solely as seignior and proprietor thereof.

Conclusion—That action be dismissed. The last plea is, not indebted.

The answer and reply to these pleas are general. The parties by consent reserved the hearing *en droit* upon these proceedings until the final hearing of the case, and they have since gone to examination and been heard finally.

Now as to the *défense au fonds en droit*, little has been or indeed could be offered in support of it; the original deed of concession upon which this hypothecary action is based *prima facie* is a valid contract, voluntarily entered into between two parties, though like every other act, liable to be set aside, upon any legal and sufficient ground, not appearing upon the face of it, and which must therefore be specially pleaded and set forth; it is sufficient therefore, that a right of action appears upon the face of the declaration, and the demand substantially set forth, to compel the defendant to answer thereto, and therefore the action cannot be under a *défense au fonds en droit* dismissed, which it could only be where the allegations of the demand are in law insufficient to support the conclusions thereof; we must therefore conclude, that it has been used not from any expectation of success, but to serve should it be found upon sub-consideration capable of being supported, and it is evident that the defendant felt he could not rely thereon as in the subsequent pleas of exception, every thing is embodied that the defendant has been able to urge as the real grounds of defence against the action.

Now the second, third and fourth pleas are exceptions of a very peculiar description, and the law invoked therein, would seem to be either unknown or to be of so doubtful a description, as not to admit of its being stated with any certainty, the object of the whole is not to set aside the deed of concession itself but to reduce the rate of rent therein stipulated to the rate of which it is alleged by law, the land should have been conceded, and at which the seignior was bound to concede; the law however is so variously stated in these exceptions, and in a manner so contradictory the one to the other, that it is evident that the defendant has been groping in the dark and scarcely knowing where to turn, in order to find something upon which to resist the plaintiff's claim for rent as stipulated in the original deed of concession, and it is evident that by invoking laws so much at variance the one with the other, the defendant must have been aware that in truth there was no certain or precise law upon the subject, and that he had not been able to discover any.

In the first exception it is alleged, that by law, the seignior could not claim a higher rent than that at which wild lands were first conceded in the seigniories of this country.

In the second, that by law, the seignior was bound to concede at the same rate at which wild lands were first conceded in the seignior of De Léry, in which the land is situated.

The third, is that, by law, he is bound to concede at the rate at which wild lands were first conceded in this province, or at the rate at which they were conceded before the year 1711, or at which they were first conceded in the seignior of De Léry.

But to crown the whole, and in order that the Court should remain in the state of darkness and uncertainty in which the defendant appears himself to have been, what the rate of rent was originally in this country, what it was in the seignior of De Léry, or what it was in Canada previous to 1711, the defendant has not taken upon himself to state, so that it is impossible from any thing set forth in these pleas that the Court can discover,

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whether the reduction claimed can be awarded or not; there is therefore nothing stated with that certainty which is essential to every pleading to enable the Court at once to say, if these facts are proved, the conclusions taken are correct.

But the trouble is, that the defendant found that the rates of rent were so various that it negatived the idea at once of any fixed rate established by law, and therefore he thought it most prudent to trust to chance, and what he might be enabled to adduce in evidence, and leave the Court to say or find out what reduction of rent should be made, and thus exercise an arbitrary control and power over a rent which the *censitaire* had by a solemn act stipulated and agreed to pay, it would require something more than what has been cited of the law of Canada upon the subject, to justify us in setting aside such a solemn agreement, entered into voluntarily by the *censitaire*, and that in accordance with the common law of France and common sense also, "*que toujours le cens a été proportionné au véritable produit de la chose accensée*" (*), the *censitaire* paying *secundum facultate bonorum*, and what more reasonable—is the *censitaire* alone to benefit from the increase in the value of lands, and the seignior to be excluded from that benefit, or is it right to suppose that in the decrease in the value of money that persons now applying for concessions should have them at the same low rate as the ancient *censitaire*, for, if so, the modern *censitaire* would have the advantage in paying much less than those for whose benefit any restriction of the rent was originally intended, as one *livre* in those days was of as much value to the possessor as three in these days. This, however, is an equitable view of the question, but where is the law which authorizes us thus to interfere, we see none, the custom which now prevails of stipulating higher rents than those which were formerly taken in the first settlement of the country, has tacitly sanctioned it, and the Courts of Justice enforced it; nor has there a judgment been cited in which the Courts of this Province have interfered between the seignior and his *censitaire* to set aside the stipulated rent agreed between them, it is not pretended that the *censitaire* ever claimed the land at a lower rent, he obtained the land that required, at it is to be presumed from his acquiescence and engagement that he recognized the right to the rent stipulated, and that he paid no more than other applicants for land at that period.

We must therefore leave these rents to be regulated by the agreement of the parties, which once concluded must be binding, and enforced as all other obligations and undertaking; we can make no arbitrary regulations upon the subject, and if any abuse hereafter may be found to exist in matters regarding the feudal tenure as modified and now existing in Canada, it is for the legislature and not the Courts to apply the remedy. Besides, the same question as that raised in this cause was so solemnly determined in

in the cause of and again recently in the case of Rolland against Molleur, in which my brother, Gale, who delivered the judgment of the Court, particularly adverted to the different authorities, again resorted to in this cause, and in a manner so fully and satisfactorily, that renders any further observations, or rather a repetition of those of Mr. Justice Gale, unnecessary; we adhere to the principle of those decisions, until the superior tribunal has convinced us that we are in error, and afforded a better principle whereon to determine.

(*) HENRI.—Théorie des matières féodales et censuelles. Vol. 5; see from page 91 to 121.

The fourth exception is, payment of all rent, which the plaintiffs could legally claim, but under this no payment has been proved.

As the fifth exception, we cannot think the defendant was serious in making it : that the plaintiffs in their qualities of executors and universal legatees never were in possession of the seigniority. No, they were not, they do not pretend they were, but the testator, general Burton, was, whom they represent, and they now sue, as legally and rightfully they may, for a debt which accrued and became due to the testator, while seignior, in possession of the seigniority of De Léry.

The proof on the part of the plaintiffs is complete as regards the quality of the plaintiffs and the possession of the seigniority by general Burton, and of the land in question by the defendant and of its original concession and stipulated rent, as well by documentary evidence as by admissions. The rests of the evidence which is verbal, accompanied by certain ancient title-deeds of concession, amounts to no more than this, that the rate of *cens et rentes* is as various as there are seigniority in Canada, and that it would be difficult to point out any two in which the rate is the same, nor search any fixed rate, as in the same seigniority the rates have varied at different periods, though always upon the increase, and there can be little doubt that the rents in the seigniories were originally of a less nominal value than at present.

The policy of the French Government, in order to forward the original settlement of this colony is obvious, and may account for many of the decisions of the courts under that government ; but throughout we can discover no precise law to authorize us to reduce the rent stipulated in a solemn contract between the seignior and his *censitaire*, made in good faith and which has now subsisted years ; and the policy of the ancient government having been attained, it must now yield to a policy equally beneficial to the public welfare and prosperity, and if we were to consider the ancient decisions as now of any weight, we should be much at a loss which to adopt, as they are as various upon the subject as the rates in different seigniories may now be and generally have always been, and indeed were we now arbitrarily to adopt any rule with regard to the rate of *cens et rentes* in the seigniories, it is almost impossible to conceive the injury, nay, the injustice which must follow in the decreased value of the seigniories of this country, and the loss which would accrue to the now proprietors thereof who have purchased their seigniories at very high prices in good faith and in the confidence that the rents established would be enforced, and they be allowed to benefit in common with their *censitaires* in the natural rise in the value of real property from the advanced and advancing state of improvement of the country and the increase of population and wealth it has acquired, besides the rate of rent stipulated, is that which one half, if not more, of the *censitaires* of De Léry now

Having no law, therefore, to authorize us to make the reduction claimed, we must, as well upon the common law rule in France as upon the general principles of law in regard to all contracts, enforce the stipulations of the original deeds of concession of the land in question, and if the *censitaires* feel themselves aggrieved and oppressed, let them apply to the Legislature which alone can afford the relief sought for, should the evil complained of be such as to justify such relief.

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IN THE KING'S BENCH.

Wednesday, the 2nd day of January 1842.

Present :

The Honorable Mr. Justice PYKE,

" " ROLLAND,

" " GALE.

No. 910.

GEORGE BURTON HAMILTON & *al.*,

Plaintiffs,

vs.

MICHEL LAMOUREUX,

Defendant.

The Court, after having heard the parties by their advocates, and having before it the admission of the defendant and the *retrait* of the plaintiffs, and having examined the record and evidence, and on the whole maturely deliberated, adjudges the immoveable property mentioned and described as follows in the declaration of the plaintiffs, that is to say :

" The one half of the lot No. 36, on the south side of the seigniorie of De Léry, containing fifty-six arpents of land in superficies, bounded in front to the north east by the diagonal line of division between the barony of Longueuil and the said seigniorie, in depth to the south-west by the second concession, on one side by the lands of Théodore Bécharde or his representatives, and on the other side by those of Louis Laberge or his representatives ; " to be charged and hypothecated for the payment of the sum of twenty-five pounds six shillings, Halifax currency, with interest on the said sum from the 21st day of July 1840, the day of the service of the writ of summons,—the said sum being due for twenty-four years of *cens et rentes* and right of *corvée*, due on the 11th day of November 1834, upon and on account of the said immoveable property ;

And therefore condemns the defendant, as the possessor and holder of the said immoveable property, to pay to the plaintiffs, in their said quality, the sum of twenty-five pounds six shillings, currency aforesaid, with the interest thereon until actual payment, and the costs of this action, unless, in so far as relates to the said sum and

the interest thereon, the defendant shall choose rather to abandon the said immoveable property in due form, to be sold by *décret* to the highest and last bidder, in the usual course of law, through the curator to be appointed to such abandonment, and to the end that out of the proceeds of such sale the said plaintiffs, in their said quality, may be paid the sum due to them as aforesaid, principal, interest and costs,—of which the defendant shall declare his option within fifteen days after the service of this judgment, failing which, then after the expiration of the said time and by virtue of this judgment, and without any other being requisite, the defendant shall be personally bound to pay the said sum with the interest, costs and other accessories;

And by reason of their contestation of the plaintiffs' demand by the said defendant, the Court condemns him personally to pay the costs on the said demand; saving also to the said plaintiffs their right to recover any *lois et ventes* which may be due on the said immoveable property.

(True copy)

(Signed)

MONK & MORROGH,
Prothy.

Nº 117.

Arrêts and Declarations concerning Grants in this Colony.

"EDICT OF THE KING OF FRANCE,"

21st March 1663,

REVOKING GRANTS OF LANDS NOT CLEARED.

The King having caused to be laid before him, in his council, his edict of the present month, whereby His Majesty, in consequence of the grant and surrender by the persons interested in the Company of New France, resumed all the rights which had been granted to them by the deceased King, in consequence of the treaty of the 29th April 1627, and His Majesty having been informed that one of the chief causes of the said country not having become as populous as might be desired, and even that several settlements have been destroyed by the *Iroquois*, is to be found in the grants of large quantities of land which have been given to all persons inhabiting the said country, who not having ever had nor having the power of clearing the same, and having established their residence in the midst of the said lands, have by that means been placed at a great distance from each other, and even from obtaining succour from the officers and soldiers of the garrison of Quebec and other places in the said country, and thus it even happens that, in a very great extent of country, what little land there is in the environs of the dwellings of the grantees being cleared, what remains can never become so; which requiring a remedy,

His Majesty, being in his council, hath ordained and doth ordain that, within six months from the date of the publication of this *arrêt* in the said country, all persons so being inhabitants thereof shall cause the lands designed in their grants to be cleared, in default whereof, at the expiration of that time, His Majesty doth ordain that all lands remaining uncleared shall be distributed by new grants in His Majesty's name, either to the former or to the new inhabitants thereof, His said Majesty revoking and annulling all grants of the said lands not as yet cleared by those of the said company.

His Majesty doth enjoin and command the Sieurs de Mezy, Governor, the Bishop of *Petrée* and *Robert*, Intendant to the said country, to see to the punctual execution of this *arrêt*, even to make a distribution of the said uncleared lands, and to grant them in the name of His Majesty.

Given in the Council of State, in presence of the King, on the 21st day of March 1663.

Arrêt of the King (4th June 1675) for reducing the Concessions which are too extensive, and for making a Census.

The King having been informed that all the subjects who have gone from Old to New France, have obtained grants of a very great quantity of land along the rivers in the said country, which they have been unable to clear by reason of their too great extent, which is an inconvenience to the other inhabitants of the said country, and even prevents other Frenchmen from going thither to settle, which is entirely contrary to the intentions of His Majesty as to the said country and to the attention he has been pleased to bestow, for eight or ten years, on the extension of the colonies which are settled therein, inasmuch as a part only of the lands bordering on the rivers is cultivated, the rest not being so, nor admitting of becoming so, by reason of the too great extent of the said grants and a want of means in the proprietors thereof; which requiring a remedy,

His Majesty, in his council, hath ordained and doth ordain that, by the Sieur Duchesneau, councillor in his councils and intendant of justice, police and finance in the said country, there shall be made an accurate statement of the quality of the lands granted to the principal inhabitants of the said country, of the number of arpents (or other measure used in the said country) which they contain on the borders of the rivers and in the interior of the lands, of the number of persons and cattle fit for and employed in cultivating and clearing the same, in consequence of which statement one half of the lands which were granted before the last ten years, and which are not cleared and cultivated as arable or as meadow land, shall be struck out of the grants and given to such persons as shall come forward to cultivate and clear them.

His Majesty ordaineth that such ordinances as shall be made by the said Sieur Duchesneau, shall be executed according to their form and tenor as being supreme and of

ultimate resort as decrees of a superior tribunal, His Majesty to that end attributing to him plenary jurisdiction and cognizance.

His Majesty thus further ordaineth that the said Sieur Duchesneau do give provisionally grants of the lands which shall so have been struck off to new settlers, on condition however that they do completely clear the same within the four next ensuing years, in default whereof, at the expiration of the said time, the said grants shall be and remain null.

His Majesty enjoineth the Sieur Comte de Frontenac, governor and lieutenant general of His Majesty in the said country, also the officers of the sovereign council therein, to see to the execution of this *arrêt*, which shall be executed, any opposition or hinderance whatever notwithstanding.

Given in the King's Council of State, holden in the camp of Luthing near Namur, on the 4th day of June 1675.

(Signed) COLBERT.

5TH MAY, 1716.

Arrêt of the King's Council of State for the re-union of the lands granted by the gentlemen of the Seminary of St. Sulpice.

The King in his council having before him the petition of the Ecclesiastics of the Seminary of St. Sulpice of Paris, seigniors of the Isle of Montreal, the land or *Côte St. Sulpice*, in Canada, their appurtenances and dependencies, in which petition they have set forth that, as seigniors of the said Isle, they have made several grants of inheritances upon the charges, renders and dues stated in the said grants; that several proprietors of the said conceded settlements having left them uncultivated and abandoned, the superiors have been obliged, for the preservation of their rights, to have recourse to the Intendant of New-France, in order to obtain permission to resume the same, which hath been granted them by divers ordinances of the 22nd of June, 1706, 25th May, 1707, 26th May, 1708, and 5th July, 1710, after having laid before the said Intendant certificates in proper form of the abandonment of the said concessions; that the late King having been informed of the negligence of the proprietors of the said concessions, and that the same would prove materially detrimental to the settlement of the colony, ordained by *arrêt* rendered on the 6th of July, 1711, that within one year from the date of the publication of the *arrêt*, the inhabitants of New-France, not residing upon the lands which have been granted them, should be held to cause the same to be actually settled and brought under cultivation, in default whereof, at the expiration of the said term, it is ordained that upon certificates of the curates and captains of the *Côtes*, shewing that the inhabitants have been one year without making actual settlement upon the said lands, and have not brought them under cultivation, they be divested of the property, and the same be re-united to the domains of the seigniors, according to such ordinances as shall be rendered by the sieur Begon, Intendant of the said country of New-

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France. That in execution of the said *arrêt*, published in the town of Montreal, on the twenty-ninth day of January, one thousand seven hundred and thirteen, the petitioners have prayed the sieur Begon to be admitted to resume more than forty-eight settlements, which appear by the certificates of the curates and captains of the *Côtes* to be abandoned and uncultivated, at the foot of which petition the said Intendant hath ordained that the parties shall be summoned. But inasmuch as many of the proprietors of these inheritances are deceased without heirs, that others have been absent many years, and that to compel them to comply with the formalities of proceeding respecting all abandoned and uncultivated concessions would be to render it impossible for them to procure re-union to their seigniories; the aforesaid Ecclesiastics of the Seminary of Saint Sulpice have most humbly prayed His Majesty to make known his intentions respecting the *arrêt* of the sixth of July, one thousand seven hundred and eleven and to determine what are the cases in which they may resume the abandoned and uncultivated concessions without other formality than that of presenting the certificates required by the said *arrêt*. And His Majesty taking into consideration that if the said Ecclesiastics were compelled to have recourse to the Intendant of the said country, respecting the said uncultivated or abandoned concessions, they would become exposed to lengthened proceedings by their remoteness from the city of Quebec, where the said Intendant resides, whose stay at Montreal is not long enough for the discussion of such matters, moreover in case of appeal from his ordinances, the parties interested therein are held to institute them in France. For all which His Majesty being willing to provide, having heard the report and having taken into consideration, His Majesty in council, by the advice of the duke of Orleans, Regent, hath ordained and doth ordain, that upon the demands of the Ecclesiastics of the Seminary of St. Sulpice, for the reunion to their seignior of the concessions by them made, they shall proceed before the royal judges of Montreal, and by appeal to the superior council of Quebec for their decree in the premises. Provided, nevertheless, that the said officers shall not take cognizance of ordinances heretofore rendered by the Intendant of the said country, with respect to which proceedings shall obtain in the usual manner, and according to the terms of the ordinances, in cases wherein the proprietors of the said concessions or their assigns seek a remedy against them. His Majesty doth nevertheless ordain, that the said ordinances shall be put in execution according to their form and tenor provisionally, until it be otherwise ordained.

Given in the King's Council of state, in His Majesty's presence, on the fifth day of May, 1716.

(Signed)

PHÉLIPPEAUX,
with paraph.

15TH MARCH, 1732.

Arrêt of the Council of State, enjoining the seigniors to cause actual settlements to be made on their seigniories, and prohibiting their selling uncleared lands.

Extract from the registers of the Council of State.

The King having caused to be laid before him in his council the *arrêt* therein rendered on the sixth day of July, 1711, reporting that such inhabitants of New-France as having ob-

tained grants of land in seignior, had not therein any cleared domain nor inhabitants settled, should be held to bring them into cultivation and to settle inhabitants thereon, within one year from the publication of the *arrêt* aforesaid, after which period they should remain re-united to His Majesty's domain, and that the said seigniors should also be held to concede to such inhabitants as should demand the same, for rent, and without exacting any sum of money, that otherwise such inhabitants should be permitted, in case of refusal after one application, to apply to the governor, lieutenant-general and Intendant of the said country for grants of them, with the same dues as are imposed upon other conceded lands, which dues should be paid to the receiver of His Majesty's domain, without any power to the seigniors to claim anything upon the lands so granted. Also another *arrêt* of the same sixth day of July, 1711, importing that the grantees of lands *en roture* should be held to actual settlement thereon, and to bring them into cultivation within one year from the date of the publication, on pain of re-union to the domain of the seigniors upon the ordinance of the Intendant. His Majesty having also been informed, that contrary to the exigencies of both those *arrêts*, certain seigniors have reserved to themselves extensive domains within their estates; that they sell tracts of wood land instead of merely conceding them for rents, and that some inhabitants having obtained grants from the seigniors have sold them to others, who successively sold them again, whereby a traffic, adverse to the good of the colony, is effected; and it being necessary to remedy such pernicious abuses, His Majesty in council hath ordained and doth ordain, that within two years from the date of the publication of this *arrêt*, all proprietors of land in seignior, as yet uncleared, shall be held to bring them into cultivation and settle inhabitants thereon, otherwise after the expiration of that time, the said lands shall be re-united to His Majesty's domain, by virtue of this *arrêt*, without a necessity for any other. His Majesty doth most expressly prohibit all seigniors and other proprietors from selling any wood land on pain of nullity of the deeds of sale and restitution of the price of the lands sold, which lands shall in like manner become re-united to His Majesty's domain; and further, both the *arrêts* aforesaid, of the sixth July, 1711, shall be put in execution according to their form and tenor, and this shall be enrolled in the office of the superior council of Quebec, and read and published wherever it shall be necessary. Given before His Majesty, in his Council of State, holden at Versailles, the fifteenth day of March, 1732.

(Signed)

PHELIPPEAUX,

with paraph.

Declaration of the King concerning grants in the colonies, 17th July, 1743.

Louis, by the grace of God, King of France and Navarre.

To all to whom these presents shall come, greeting.

We have, after the example of the Kings our ancestors, authorized the governors and intendants of our colonies in America, not only themselves to grant the lands which

we cause to be distributed to such of our subjects as are willing to settle thereon, but also to proceed to re-unite to our domain such granted lands as are liable to re-union, by not having been brought into cultivation ; and they have also cognizance, to the exclusion of the ordinary judges, of all differences arising between the grantees or their assigns, as well as with respect to the validity and execution of the grants, as to their situation, extent and limits ; but we are informed that, up to this time, there hath been scarcely any thing certain, either with respect to the form of proceeding, in cases of the re-union of grants, or of the trial and adjudication of suits between the grantees or their assigns, or with respect to the method to be adopted for obtaining relief against the ordinances rendered by the governors and intendants on this matter, so that not only have different customs been introduced in the several colonies, but also in one and the same colony there have been frequent variations in this respect : In order to put an end to that state of uncertainty, upon matters of such interest to the security and tranquillity of families, we have resolved on establishing by express law fixed and invariable rules to be observed throughout our colonies, both as to form of proceeding to the re-union to our domain of the concessions which are liable to be thereunto re-united, and to the proceedings on the question they may occasion, also to the modes of recourse to be pursued by those who may deem themselves aggrieved by the judgment advice which may be rendered : For these causes and others, us there unto moving, with the of our council, and of our certain knowledge, full power and royal authority, we have declared and ordained, and by these presents under our sign manual do declare and ordain, and our will and pleasure is as followeth :

Art. 1.—The governors or lieutenant governors and the intendants of our colonies, or in default of them, or in their absence from the colonies, the officers representing them, shall continue jointly to make grants of land to the inhabitants who apply for them, in order to bring them into cultivation, and shall give them titles on the usual and accustomed terms and conditions.

2.—They shall in like manner proceed to re-unite to our domain the lands which are liable to be re-united thereto, and this shall be at the diligence of our attornies, in the ordinary jurisdiction within the limits of whose cognizance the said lands shall be situated.

3.—They shall not grant lands that have once been conceded, although liable to re-union, until after their re-union shall have been adjudged, on pain of nullity of the new concessions, without prejudice nevertheless to the re-union which may always be sued for against the first grantees.

4.—Our governors and lieutenant governors, and intendants, or in default of them, or in their absence from the colonies, the officers representing them, shall also continue to have cognizance, to the exclusion of all other judges, of all differences arising between the grantees and their assigns, as well as to the validity and execution of the grants, as on the subject of their situations, extent and limits ; and in case of their being minors who are parties to the said differences, such differences shall be communicated to our attornies in the ordinary jurisdictions within which the governors and intendants shall reside, in order that they may take their conclusions, in the same manner as if

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the said differences were instituted in the said jurisdictions. It is not nevertheless intended to include in this article differences arising on family partitions, of which the judges of our ordinary jurisdictions shall continue to have cognizance.

5.—We declare to be null and of none effect all grants which shall not be made by the governor and intendant jointly, or by the officers respectively representing them, as also all re-unions which shall not be pronounced, and all judgments which shall not be rendered in common by them or their representatives. Nevertheless we empower either of them in case of the decease of the other, or of his absence from the colony, and a defect of officers capable of representing such as may be dead or absent, to make the grants alone, and even proceed to the re-unions to our domain, and to the adjudication of suits between the grantees, calling nevertheless upon such officers of the superior councils or jurisdictions as he shall think fit. And he shall be held to make mention as well on the concessions and re-unions, as in the judgments upon private suits, of the necessity in which he may have been so to proceed, on pain of nullity.

6.—In cases in which the governors and intendants shall be of different opinions, on applications made to them for grants of land, it is our pleasure that they do suspend the issuing of grants until they receive our orders, upon the statements they shall make to us of their motives; and in cases of a division of opinion between them, whether as to judgments of re-union, or upon differences between proprietors of grants, they shall call in the senior member of the superior council, or in case of absence or lawful impediment, two councillors next following him in the order of the list, the whole without prejudice to the preponderance of the vote of the governors in matters concerning our service, in which it is to obtain.

7.—In matters in which it shall happen that local visitations, and nominations, and reports of experts or inquests are ordered, the enactments in that behalf of the twenty-first and twenty-second titles of the ordinance of one thousand six hundred and sixty-seven, shall be observed on pain of nullity.

8.—The parties may have their remedy by appeal to our council from judgments rendered by the governors and intendants upon the said private differences and upon re-unions to our domain. The said appeals may be instituted by mere "acts," and the petitions which shall be presented accordingly, shall together with the paper writings of the parties be transmitted to the secretary of state for the marine department, in order that upon his report thereon, in our council, we may do therein as shall be meet.

Wherefore, we enjoin our beloved and faithful the members of our Superior Council of Canada, that they do cause these presents to be read, published and enrolled, and that the contents thereof they do keep, observe and execute according to their form and tenor, any Edict, Declaration, *Arrêt*, Ordinance, or other thing to the contrary thereof notwithstanding, all such being hereby derogated from. For such is our pleasure.

In witness whereof, we have caused our seal to be hereunto set.

Given at Versailles, this 17th day of July, in the year of Our Lord 1743, and of our Reign the 28th.

(Signed) LOUIS.

(Signed) PHELIPPEAUX.

1ST OCTOBER, 1747.

Declaration of the King in interpretation of that of 17th July, 1743, concerning grants of land in the colonies.

Louis, by the grace of God, King of France and Navarre.

To all to whom these presents shall come, greeting.

By our declaration of the 17th day of July, 1743, we have regulated the form of proceeding whether as to concessions of lands in our French colonies or as to the reuniting to our domain of such conceded lands as are liable to be reunited thereto, or as to the trial and adjudication of differences arising between the grantees or their assigns; and by the 8th article of the same declaration, we have ordained that the parties may have their recourse by appeal to our Council against the judgments which shall be rendered by the governors and intendants of the said colonies, on all those matters of which the cognizance devolves upon them to the exclusion of all other judges, that the said appeals may be instituted by mere *actes*, and that the petitions which shall be presented accordingly, shall be transmitted together with the paper writings of the parties to our Secretary of State for the Marine Department, in order that upon his report to our Council we may do that which shall be meet. But, upon the last article, it hath been represented unto us, that by reason of the distant situation of places, it would be expedient, for the sake of justice, to render provisionally executory the judgment pronounced by the said governors and intendants, and that such new provision would prevent many appeals which are instituted by the parties merely in order to maintain their unjust possession. For these causes and others, us thereunto moving, with the advice of our Council, and of our certain knowledge, full power and Royal authority, we have, in interpretation of our declaration of the 17th of July, 1743, declared and ordained, and do declare and ordain, and it is our will and pleasure that the judgments which shall be rendered in consequence of our declaration by the governors, our lieutenants general, and the intendants in our colonies, or by the officers representing them, upon the said matters, of which they have the cognizance to the exclusion of all other judges, shall be provisionally executory, notwithstanding any appeal which may be instituted and without prejudice thereto. We nevertheless leave it at the discretion of the said governors and intendants, in the cases in which they shall deem it proper, not to direct the provisional execution of their judgments unless upon good and sufficient security being entered into by the party in whose favor they shall have been rendered. Our said declaration shall moreover be put in execution according to the form and tenor thereof.

Wherefore, we enjoin our beloved and faithful the members of our Superior Council of Quebec, that they do cause these presents to be read, published and enrolled, and the contents of the same observed and put in execution according to their form and tenor, any Edict, Declaration, *Arrêt*, Ordinance, Regulation and other things to the contrary notwithstanding, all which we have derogated from and do hereby derogate from.

In witness whereof, we have caused our seal to be hereunto affixed.

Given at Versailles, this 1st day of October, in the year of Our Lord 1747, and of our Reign the 33rd.

(Signed) LOUIS.

(Signed) PHELIPPEAUX.

Arrêt enjoining communication to the trustee (syndic) for the inhabitants, of the Arrêt concerning the re-union of the uncleared lands, before rendering judgment.

The governor and bishop having laid before the Council the *Arrêt* of the King's Council of State of the 21st of March, 1663, enjoining that within six months from the publication thereof all the inhabitants shall cause to be cleared all the lands contained in their concessions, in default whereof all those which shall remain uncleared shall be distributed by new grants in His Majesty's name, His Majesty annulling and revoking all grants of the said lands, not yet cleared, made by the persons heretofore interested in the Company of New-France, whereby it is enjoined them to see to the punctual execution of the said *Arrêt*, and even to make a distribution of the said uncleared lands and to make grants thereof in His Majesty's name, they demand that the said *Arrêt* be put in execution in every respect, according to its form and tenor; and that in so doing, all the lands which are not at present cleared and brought under cultivation, be declared re-united to the King's domain, to be disposed of in His Majesty's name, by new grants in favor of persons demanding them as aforesaid; the said governor and bishop declaring that they do not in any way pretend to influence (*intéresser*) the people inhabiting this country, nor to compel them to quit their houses and settlements, consenting that these do remain in the state in which they are, but that with respect to those of which grants are to be made, they will take care that the King's instructions be therein followed, and that they be reduced into hamlets and boroughs (*bourgs et bourgades*), as far as can be done, as also that it be forbidden to all pretended seigniors to dispose by grant of any waste lands on pain of nullity: the King's attorney being heard, who hath prayed that all the tracts of wood land be re-united to the King's domain, the Council, before adjudication, hath ordained that the said *Arrêt* shall be communicated to the trustee for the settlers, at the diligence of the King's attorney general, in order to such decree upon his answer as shall be meet.

Imperial Act 3rd George IV, cap. 119.

Section 31st.—And whereas doubts have been entertained whether the tenure of lands within the said Provinces of Upper and Lower-Canada holden in *fief* and seigniorie can legally be changed ; and whereas it may materially tend to the improvement of such lands, and to the general advantage of the said Provinces, that such tenures may henceforth be changed in manner hereinafter mentioned ; be it therefore further enacted and declared, that if any person or persons holding any lands in the said Provinces of Lower and Upper-Canada, or either of them, in *fief* and seigniorie, and having legal power and authority to alienate the same, shall, at any time from and after the commencement of this Act, surrender the same into the hands of His Majesty, his heirs or successors, and shall, by petition to His Majesty or to the governor, lieutenant governor or person administering the government of the Province in which the lands so holden shall be situated, set forth that he, she or they, is or are desirous of holding the same in free and common soccage, such governor, lieutenant governor, or person administering the government of such Province as aforesaid, in pursuance of His Majesty's instructions transmitted through his principal Secretary of State for colonial affairs, and by and with the advice and consent of the Executive Council of such Province, shall cause a fresh grant to be made to such person or persons of such lands to be holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great-Britain called England ; subject nevertheless to payment to His Majesty, by such grantee or grantees, of such sum or sums of money as and for a commutation for the fines and other dues which would have been payable to His Majesty under the original tenures, and to such conditions as to His Majesty, or to the said governor, lieutenant governor, or person administering the government as aforesaid, shall seem just and reasonable ; provided always, that on any such fresh grant being made as aforesaid, no allotment or appropriation of lands for the support and maintenance of a protestant clergy shall be necessary ; but every such fresh grant shall be valid and effectual without any specification of lands for the purpose aforesaid ; any law or statute to the contrary thereof in any wise notwithstanding.

32.—And be it further enacted, that it shall and may be lawful for his Majesty, his heirs and successors, to commute with any person holding lands at *cens et rente* in any *censive* or *fief* of His Majesty within either of the said Provinces, and such person may obtain a release from His Majesty of all feudal rights arising by reason of such tenure, and receive a grant from His Majesty, his heirs or successors, in free and common soccage, upon payment to His Majesty of such sum of money as His Majesty, his heirs or successors, may deem to be just and reasonable, by reason of the release and grant aforesaid, and all such sums of money as shall be paid upon any commutations made by virtue of this Act, shall be applied towards the administration of justice, and the support of the civil government of the said Province.

“ Act of the Imperial Parliament, 6th George IV, Cap. 59.”

Section 1.—Whereas, in and by an act passed in the third year of His Majesty's reign (3 Geo. 4, C. 119,) intituled, “ An Act to regulate the trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces,” certain provisions were made for a change of the tenure of lands held in *fief* and seigniory, and also for the change of the tenure of lands held at *cens et rentes*, in the *censive* of His Majesty, in the provinces of Upper and Lower Canada; and whereas the said provisions, in so far as they relate to the change of tenure of lands in *fief* and seigniory, cannot, in the said province of Lower Canada, receive execution where such lands or part thereof have, under grants of the seigniors, become the property of persons who hold the same *à titre de fief* in *arrière-fief* or *à titre de cens*, and further provision in this behalf is necessary :

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that whenever any person or persons, holding of His Majesty as proprietor, or proprietors, any *fief* or seigniory in the said province of Lower Canada, and having legally the power of alienating the same, in which *fief* or seigniory lands have been granted and are held *à titre de fief*, in *arrière-fief*, or *à titre de cens*, shall, by petition to the King, through the governor, lieutenant governor, or person administering the government of the said province, apply for a commutation of and release from the *droit de quint*, the *droit de relief*, or other feudal burdens due to His Majesty on such *fief* or seigniory, and shall surrender into the hands of His Majesty, his heirs or successors, all such parts and parcels of such *fief* or seigniory as shall remain and be in his possession ungranted, and shall not be held as aforesaid *à titre de fief*, in *arrière-fief*, or *à titre de cens*, it shall and may be lawful for His Majesty, or for such governor, lieutenant governor, or person administering the government as aforesaid, in pursuance of His Majesty's instructions transmitted through one of his principal secretaries of state, by and with the advice of the executive council of the said province, to commute the *droit de quint*, the *droit de relief*, and all other feudal rights and burdens due to His Majesty upon or in respect of such *fief* or seigniory, for such sum of money or consideration, and upon such terms and conditions, as to His Majesty, or to such governor, lieutenant governor, or person administering the government as aforesaid, in pursuance of such instructions, and by and with such advice as aforesaid, shall appear meet and expedient; and thereupon to release the person or persons so applying, his, her, and their heirs and assigns, and all and every the lands comprised in such *fief* or seigniory, from the said *droit de quint*, *droit de relief*, and all other feudal burdens due or to grow due thereupon to His Majesty, his heirs or successors, of whatsoever nature or kind, for ever, and to cause a fresh grant to be made to the person or persons so applying, of all such parts and parcels of such *fief* or seigniory as shall as aforesaid remain and be in his, her, or their possession ungranted, and which shall not be held *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, to be thenceforward holden in free and common soccage, in like manner

as lands are now holden in free and common soccage in that part of Great Britain called England, without its being necessary for the validity of such grant, that any allotment or appropriation of lands for the support and maintenance of a protestant clergy should be therein made; any law or statute to the contrary thereof notwithstanding.

2.—Provided always, and be it further enacted, that such fresh grant as aforesaid shall be made nothing in this act contained shall extend or be construed to extend to take away, diminish, alter or in any manner or way affect the feudal, seigniorial or other rights of the seignior or person in whose favor such grant shall be made, upon and in respect of all and every the lands held of him *à titre de cens* or *à titre de fief*, in *arrière-fief*, as aforesaid, making part of his, her or their fief or seignior, on which a commutation of the *droit de quint* or *droit de relief* shall have been obtained as aforesaid; but that all and every such feudal, seigniorial and other rights shall continue and remain in full force upon and in respect of such lands so held *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, and the proprietors and holders of the same, as if such commutation or grant had not been made, until a commutation, release and extinguishment thereof shall have been obtained in the manner hereinafter mentioned.

3.—And be it further ordained that, in all cases where any seignior or seigniors, or person or persons holding land *à titre de fief* in the said province of Lower Canada, shall by reason or means of a commutation with His Majesty, or of a surrender of his, her or their fief or seignior, or any part thereof, to His Majesty, or by reason or means of a commutation with his or their immediate superior lord or seignior, or otherwise howsoever, have obtained or shall or may hereafter obtain for himself, herself or themselves, his, her or their heirs or assigns, from His Majesty, or from the governor, lieutenant governor or person administering the government of the said province of Lower Canada, or from his, her or their immediate superior, lord or seignior, a release from and extinguishment of the *droit de quint* or *droit de relief*, due and payable by him, her or them, his, her or their heirs and assigns, for or in respect of lands so held *à titre de fief*, such seignior or seigniors, person or persons aforesaid, his, her or their heirs and assigns, shall be held and bound, when thereunto required by any of his, her or their *censitaires*, or the persons who now hold or hereafter may hold the said lands, or any of them or any part thereof, *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, to consent to grant and allow to and in favor of such *censitaires*, or other person or persons, as aforesaid, requiring the same, a commutation, release and extinguishment of and from the *droit de quint* and *droit de lods et ventes*, as the case may be, and all other feudal and seigniorial rights and burthens to which such *censitaire*, or other person or persons, his or their heirs and assigns, and his and their lands so held by him or them, may be subject or liable to such seignior or seigniors, person or persons aforesaid, his, her or their heirs and assigns, for a just and reasonable price, indemnity or consideration to be paid for the same, which price, indemnity or consideration, in case the parties concerned therein shall differ respecting the same, shall be ascertained and fixed by *experts* to be in that behalf nominated and appointed, and according to the due course of law in the said province of Lower Canada, regard being had to the value of the said lands so held *à titre de cens* or *à titre de fief*, in *arrière-fief*, as aforesaid.

No. 120.

**STATEMENT of the Revenues of the Seigniori of Argenteuil, produced by Colonel
C. C. Johnson, Esquire.**

	£	s.	d.	£	s.	d.
Gross returns of the Seigniori of Argenteuil for one year, ending 24th July 1839.....				3092	10	11
Amount of arrears of rent.....	2119	2	4			
Amount of do. of <i>lods et ventes</i>	1354	4	1			
Total arrears to 5th June 1839.....				3473	6	5
Cash rent of the Seigniori for the year ending 11th November 1838.....	186	8	11			
Wheat rent of do. same period, 1318 6-20 bushels at 7s. 6d.....	494	7	3			
Value of 1 year's rent due 11th November 1838.....				680	16	2
Gross returns of St. Andrew's Grist Mill for the year ending 9th July 1839	639	19	7			
Gross returns of Chute Grist Mill for the same period.....	218	3	3½			
Gross returns of Chute Oat Mill do.....	534	3	9½			
Do. do. of Barley Mill do.....	101	7	7			
Do. do. of Chute Saw Mill do.....	60	0	0			
Chute Carding and Fulling Mill rented for.....	50	0	0			
Total gross returns of the Mills for one year.....				1603	14	2
Rivière Rouge Saw Mill now rebuilding.....	0	0	0			
Whole number of the tenants on the Seigniori.....	414					
Entire population of ditto.....	2,770					
Number of acres of land conceded and paying rent.....	53,587½					
Number of acres of unconceded land.....	3,600					
Do. of Col. Johnson's private property.....	1,539					

C. C.

(Signed)

C. MACDONNELL, Agent.

St. Andrews, 7th August 1839.

No. 121.

AN ABSTRACT shewing the quantity of Land unoccupied though conceded; the annual value of the *cens et rentes* and the *lods et ventes* for the last seven years, with the number of mutations during that period in the following Seigniories, the property of William P. Christie, Esquire.

Seigniories.	Quantity of Land unoccupied though conceded.	Number of mutations.	Amount of <i>lods et ventes</i> in the last seven years.	Annual value of <i>cens et rentes</i> .
			£ s. d.	£ s. d.
Repentigny.....		5	82 14 1	41 1 10
Lacolle.....	3400	65	378 2 6	785 17 5
De Léry.....	2000	208	1428 2 6	1256 18 3
Bleury.....	600	195	1034 6 7	593 4 3
Sabrevois.....	5000	93	605 17 3	702 2 1
Noyan.....	1000	94	603 14 1	667 1 4

No. 122.

STATEMENT of Expenditure by the Seignior of Beauharnois for public objects since
1st January 1822, inclusive. Produced by E. G. Wakefield, Esquire.

£ s. d.		£ s. d.	£ s. d.
3092 10 11	Bridges.....	1206 4 9	
	Roads.....	2048 18 0	
3473 6 5	Quays.....	319 10 9	
	Steamboats.....	50 0 0	
	SURVEYS—Land Survey.....	2246 15 1	
	St. Lawrence Canal.....	592 17 0	
680 16 2	Rail Road.....	41 6 10	
	Boundary Line, by desire of Government.....	86 2 8	
		2967 1 7	
	MILLS—Flour Mills.....		
	Oatmeal.....		
	Carding.....		
	Fulling.....		
	Barley.....		
1603 14 3	Saw.....		
		24194 9 9	
	CHURCH ESTABLISHMENT—Buildings.....	1783 2 4	
	Allowance to Clergy.....	1000 0 0	
		2783 2 4	
	SCHOOL ESTABLISHMENTS—Buildings.....	272 7 0	
	Allowance to School Masters.....	800 0 0	
		1072 7 0	
	Taverns and Houses for public accommodation.....	1780 0 4	
	Establishment of Fishery at Buisson Point.....	345 8 5	
	Water Courses to drain Censitaires' Lands.....	658 5 8	
	Barracks for maintenance of Troops.....	200 0 0	
	Establishment of Villages.....	440 15 9	
	AGRICULTURAL ENCOURAGEMENT AND IMPROVEMENTS.		
	Farm Buildings for a Model Farm.....	1000 0 0	
	Extra cost of superior Stock, Seed, Animals, and Scientific Implements..	300 0 0	
	GRATUITOUS USE GIVEN TO CENSITAIRES.		
14 years.	Annual gratuitous distribution of young stock.....	700 0 0	
	Expense of carrying on Model Farm beyond Returns.....	2800 0 0	
	Annual Contribution to County Agricultural Society.....	300 0 0	
		5100 0 0	
	Interest on the above outlays at a very moderate computation.....	£43166 4 4	
		6833 15 8	
		£50000 0 0	

Beauharnois, 1st August, 1842.

It may be well to remark that, independently of the above expenditure, the Seignior gave up the two and a-half first years of rent, in all concessions since 1822, equal to one shilling and three pence 80,000 arpents£5000 0 0

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ual value of
ens et rentes.
£ s. d.
41 1 10
785 17 5
1256 18 3
593 4 3
702 2 1
667 1 4

ANNUAL Revenue and Cost of Management since 1st January 1822 to 31st December 1841.

Years.	Gross Revenue.			Cost of Management			Years.	Gross Revenue.			Cost of Management		
	£	s.	d.	£	s.	d.		£	s.	d.	£	s.	d.
1822	514	0	6	503	13	3	1835	3748	14	5	723	10	1
1823	731	11	11	542	18	10	1836	3662	4	8	834	3	0
1824	917	7	0	569	3	3	1837	3662	15	10	1479	5	5
1825	1589	10	10	506	12	0	1838	3567	12	9	1488	9	5
1826	2617	1	4	589	2	4	1839	8467	3	11	1587	16	0
1827	1427	10	10	542	4	2	1840	5978	10	11	2157	16	0
1828	1529	1	1	555	13	4	1841	6736	7	8	2727	14	4
1829	1545	7	7	699	1	6							
1830	1825	12	7	687	2	6		£59644	17	1	£18967	11	6
1831	2357	16	10	673	13	4	Less.....	18967	11	6			
1832	3091	17	10	614	16	11	Net Revenue	£40677	5	7			
1833	2810	1	2	635	12	3							
1834	2855	4	4	849	2	7							

No. 123.

STATEMENT shewing the number of actions instituted in the Superior Terms of the Court of King's Bench for the District of Montreal, during the years 1840, 1841 and 1842, and distinguishing therein the proportion of seigniorial actions from other actions.

Terms.	Seigniorial Suits.	Actions other than Seigniorial	Total Number of Actions instituted.	Terms.	Seigniorial Suits.	Actions other than Seigniorial	Total Number of Actions instituted.
1840.				1842.			
February.....	79	701	780	February.....	172	408	580
April.....	32	350	382	April.....	66	231	297
June.....	47	389	436	June.....	26	326	352
October.....	216	699	915	October.....	58	682	740
Total....	374	2,139	2,513	Total....	322	1,647	1,969
1841.							
February.....	146	646	792				
April.....	113	273	386				
June.....	49	331	380				
October.....	103	590	693				
Total....	411	1,840	2,251				

December

No. 124.

STATEMENT of the number of Executions issued and lodged in the Sheriff's Office of Montreal from the 5th October 1839 to 5th October 1842—3,440; of these are issued at the instance of the following Seigniors, as follows :—

	s.	d.
3	10	1
4	3	0
9	5	5
38	9	5
37	16	0
37	16	0
37	14	4
37	11	6

Joseph Ainsse, Esquire, Seignior of Varennes.....	1
François Languedoc, Esquire, Seignior of St. George.....	1
Janvier D. Lacroix, Esquire, Seignior of Ste. Thérèse de Blainville.....	1
Marguerite Baby, veuve Selby, Seignioress of Lasalle.....	1
Lambert Dumont, Esquire, Seignior of St. Eustache.....	1
The Hon. T. Pothier, Seignior of Fief La Gauchetière.....	2
Catherine Jordan, veuve Clame, Seignioress of Mille-Isles.....	2
The Gent. Seminary of Montreal, Seigniors of Montreal and Lac des Deux Montagnes.....	2
The Hon. F. X. Mailhot, Seignior of Verchères.....	3
William Yule, Esquire, Seignior of Chambly.....	3
James Cuthbert, Junior, Seignior of Lanoraye et Dautraye.....	4
The Hon. C. Grant, Seignior of Longueuil.....	4
Pierre L. Panet, Seignior of Daillebout.....	4
The Hon. J. Pangmaa, Seignior of Mascouche de Lachenaye.....	5
John Boston, Esq., Seignior of Thwait and St. James.....	5
Aimé Massue, Esq., Seignior of St. Aimé.....	7
The Hon. B. Joliette, Seignior of St. Paul.....	7
Dame Duchesnay, veuve St. Ours, Seignioress of St. Ours.....	10
G. B. Hamilton <i>et al.</i> , Seigniors of DeLéry <i>et al.</i>	11
The Hon. Joseph Masson, Seignior of Terrebbonne.....	16
The Hon. J. R. Rolland, Seignior of Monnoir.....	16
Hertel de Rouville, Seignior of St. Hilaire de Rouville.....	23
C. C. Johnson, Esq., Seignior of Argenteuil.....	23
William Bingham, <i>et al.</i> , Seignior of Rigaud.....	26
Marie R. Papineau, veuve Desaulles, Seignioress of St. Hyacinthe.....	34
The Hon. P. D. DeBartzch, Seignior of St. Charles, St. Marc and St. François.....	66
The Hon. Edward Ellice, Seignior of Beauharnois.....	96
Dame De Léry, veuve de Beaujeu, Seignioress of Soulanges and Nouvelle-Longueuil.....	111
William Plenderleath Christie, Esq., Seignior of De Léry, Lacolle, Noyan, Sabrevois, De Bleury and Repentigny.....	179
	664

Terms of the
1840, 1841
Actions from

	Total Number of Actions in- stituted.
580	
297	
352	
740	
1,969	

No. 125.

STATEMENT of the Amounts of Quints paid to the Receiver General during the following periods :

From 25th September to 22th December, 1803.....	£2856	16	5
1st May 1804.....	500	0	0
1st Nov. 1804.....	6	6	4
1st May 1805.....	48	17	7
1st May 1806.....	120	5	3
Oct. 1808.....	2493	4	9
10th January 1810.....	741	7	8½
" " 1810.....	15	18	0
6th July 1810.....	207	1	4
6th January 1811.....	10	0	0
5th April 1811.....	225	4	5
" " 1811.....	5	6	4
" " 19th June, 1812.....	155	1	2
	£7385	9	3½

			Brought forward...£7385			9	34
19th June 1812	7th July,	1813.....	266	13	4		
7th July	10th November,	1813.....	103	2	3		
11th Nov. 1813	2nd April,	1814.....	297	8	11		
10th Oct. 1814	10th October,	1815.....	637	3	4		
" " 1816	10th April,	1817.....	639	8	84		
11th April	10th October,	1817.....	680	0	0		
" "	" "	1818.....	5	10	0		
" "	" "	1819.....	2605	6	114		
" Oct. 1819	11th April,	1820.....	2304	0	0		
" April	10th October,	1820.....	27	16	1		
" Oct. 1820	10th April,	1821.....	94	3	9		
" April	10th October,	1821.....	2453	7	0		
" Oct. 1821	16th March,	1822.....	257	6	4		
16th March	10th October,	1822.....	81	13	4		
11th Oct. 1822	10th April,	1823.....	473	6	8		
11th April	10th October,	1823.....	174	13	4		
25th Nov. 1823	10th April,	1824.....	474	16	9		
11th Oct. 1824	10th April,	1825.....	87	14	2		
11th April	10th October,	1826.....	987	10	5		
" "	" "	1827.....	395	5	0		
" "	" "	1828.....	1546	13	4		
10th Oct. 1828	" April,	1829.....	110	0	0		
11th April	" October,	1829.....	168	1	104		
11th Oct. 1829	" April,	1830.....	1147	10	0		
11th April	" October,	1830.....	507	19	9		
" Oct. 1830	" April,	1831.....	35	0	0		
" April 1831	" October,	1831.....	1133	2	84		
10th Oct. "	" April,	1832.....	131	3	4		
11th April	" October,	1832.....	126	13	4		
" Oct. 1832	" April,	1833.....	110	3	4		
" " 1833	" "	1834.....	936	11	2		
10th April	" October,	1834.....	1480	16	8		
10th Oct. 1834	" April,	1835.....	1455	12	24		
10th April	" October,	1835.....	63	3	0		
" "	11th October,	1836.....	133	6	8		
10th Oct. 1836	10th April,	1837.....	59	6	8		
11th April	" October,	1837.....	249	15	0		
10th Oct. 1837	" April,	1838.....	623	19	8		
" " 1839	11th "	1840.....	191	16	0		
" April	" October,	1840.....	236	13	4		
11th Oct. 1840	10th April,	1841.....	873	10	10		
10th April	" October,	1841.....	25	13	4		
Total....			£31778	7	94		

Memo.—Annual average for 38 years....£836 5 54—Errors excepted.

(Signed) F. W. PRIMROSE,

I. G. Q. D.

Quebec, 16th August 1842.

No. 126.

STATEMENT of the prices of Wheat for different years, as below stated, furnished by the Reverend M. Comte, Montreal.

Year.	Liv. Sol.	Year.	Liv. Sol.	Year.	Liv. Sol.	Year.	Liv. Sol.	Year.	Liv. Sol.
1729	3 ..	1750	3 ..	1779	8 ..	1800	12 ..	1821	5 5
1730	3 ..	1751	5 ..	1780	10 8	1801	6 ..	1822	6 ..
1731	2 10	1752	4 ..	1781	9 ..	1802	6 ..	1823	6 12
1732	3 ..	1753	3 10	1782	7 ..	1803	6 ..	1824	6 ..
1733	2 ..	1754	3 10	1783	6 ..	1804	9 ..	1825	6 ..
1734	2 ..	1755	3 10	1784	6 ..	1805	8 ..	1826	6 ..
1735	2 ..	1756	5 ..	1785	6 ..	1806	8 10	1827	6 6
1736	3 10	1757	10 ..	1786	4 ..	1807	9 ..	1828	9 ..
1737	4 ..	1766	3 ..	1787	3 ..	1808	9 10	1829	7 ..
1738	3 ..	1767	3 10	1788	10 8	1809	10 10	1830	7 ..
1739	2 ..	1768	4 ..	1789	6 ..	1810	10 10	1831	6 ..
1740	2 ..	1769	6 ..	1790	4 ..	1811	12 ..	1832	6 ..
1741	2 10	1770	4 10	1791	4 ..	1812	19 ..	1833	5 10
1742	3 10	1771	3 ..	1792	4 ..	1813	16 ..	1834	5 10
1743	4 5	1772	4 ..	1793	4 ..	1814	9 ..	1835	6 10
1744	4 2 $\frac{1}{2}$	1773	5 ..	1794	5 ..	1815	16 ..	1836	10 ..
1745	3 ..	1774	4 ..	1795	10 ..	1816	12 ..	1837	8 10
1746	2 10	1775	4 ..	1796	7 ..	1817	7 10	1838	8 ..
1747	3 ..	1776	3 10	1797	6 ..	1818	8 5	1839	7 10
1748	3 ..	1777	6 ..	1798	5 ..	1819	6 ..	1840	6 12
1749	2 10	1778	6 ..	1799	9 ..	1820	4 10	1841	7 10

No. 127.

TABLES OF THE RATES AND CONDITIONS OF GRANTS OF SEIGNIOLIES.

Name of Seignior or <i>arvère-fief</i> , and in what District situate.	Date of original grant.	By whom granted.	To whom granted.	State the extent of the seignior or <i>Fief</i> , its dimensions, contents in square arpents, and its <i>ten- ants et aboutissants</i> fully.	State the terms, charges and conditions set forth in the original grant.
Rivière-du-Loup.	16th May, 1666....	Company of West Indies.	François Dionne.	Of extent of land, with the rights of piscary, chase, and mines, minerals and waters. <i>En toute propriété et seigneurie.</i>	Faalty and homage on each mutation of pos- sessor, with a piece of gold. To commence clearing of the country within three years, on pain of re-union to domain.
Batiécane.....	13th March, 1639.	Company of New- France.	Reverend Jesuits.	<i>Plein fief, foi et hommage, haute, moyenne et basse justice.</i> To hold by themselves, or to grant to savages, or others, embracing Christianity, according to the laws of <i>fiefs</i> by the Custom of Paris.	Faalty and homage and the delivery of a silver cross every 20 years after settlement of the property in mortmain.
Portneuf.....	16th April, 1647, in confirmation of his possession under a previous deliberation of the Company of 5th January, 1636.	Company of New- France.	Sieur de la Po- t- rie	<i>En toute propriété, justice et sei- gneurie.</i>	Faalty and homage, and payment on each mutation of possessor of all rights and dues according to <i>fiefs</i> of the same quality, "ac- cording to the Custom of Paris, and which the company direct shall be kept and observ- ed all over New-France." Not to carry on fur trade, except on certain conditions. Not to obstruct navigation of St. Lawrence and other rivers, nor exact toll on vessels, &c.— To leave a high road of 20 <i>toises</i> along the shore of the St. Lawrence from its height of water at the fullest season.
Berthier.....	11th Oct., 1753....	Governor for the king.	Sieur Joseph Ber- thier.	<i>Fief et seigneurie, haute, moyenne et basse justice, pêche, chasse, traite avec les sauvages.</i>	<i>Foi et hommage</i> , with other dues and services according to <i>Coutume de Paris</i> . Preservation of oak. Disclosure of mines, &c. <i>Feu et lieu</i> , &c. Clear land, &c., on pain of re- union, (highways.)

Berthier.....	11th Oct., 1753...	Governor for the King.	Sieur Joseph Berthier.	<i>Fief et seigneurie, haute, moyenne et basse justice, pêche, chasse, traite avec les sauvages.</i> (Disclosure of mines, &c. <i>Feu et lieu, &c.</i> Clear land, &c., on pain of re-union, (highways.)
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TABLES OF THE RATES AND CONDITIONS OF GRANTS OF SEIGNIORIES.—Continued.

Name of seignior or <i>arrêre-fief</i> , and in what District situate.	Date of original grant.	By whom granted.	To whom granted.	State the extent of the seignior or <i>Fief</i> , its dimensions, contents in square arpents, and its tenants et aboutissants fully.	State the terms, charges and conditions set forth in the original grant.
Notre Dame des Anges, Québec.	10th March, 1626.	Duke de Ventadour, lieutenant-general of the King, &c.	Reverend Jesuits.	<i>En don irrévocable et perpétuel....</i>	<i>Concéder aux cens, rentes et redevances accordées par chaque arpent de front sur 40 de profondeur.</i> Reservations for forts. No conditions or reservations.
Sillery.....	23rd Oct., 1699....	Governor for the King.	Reverend Jesuits.	<i>En fief from the King, with haute, moyenne et basse justice, as their property, according to Custom of Paris.</i>	
Boucherville.....	3rd Nov., 1762....	M. Talon, for the King.	Sieur Boucher....	<i>En fief, avec tous droits de seigneurie et justice.</i>	<i>Foi et hommage, and feudal dues and services according to Custom of Paris, "which shall be followed provisionally until otherwise directed by the King, obligation to have residence, <i>feu et lieu</i>," and require same for tenants, on pain of re-union to domaine. To preserve oak trees for His Majesty's use, to disclose the discovery of all mines, and to suffer all highways to be made, &c.</i>
Boulauges.....	12th Oct., 1702....	Governor, for the Crown.	Sieur de Soulanges.	<i>A titre de fief et seigneurie, haute, moyenne et basse justice, fishery and chase, right of trading with the Indians.</i>	Faalty and homage and other dues and services according to <i> Coutume de Paris</i> followed in the country. To preserve oak trees, to disclose mines, &c., to keep <i>feu et lieu</i> , himself and tenants, to settle and clear the property immediately after the then war, to give land for roads, &c. Reservation of one arpent of land for a fort and of firewood for garrison.

TABLES OF THE RATES AND CONDITIONS OF GRANTS OF SEIGNIORIES.—Continued.

Name of seigniority or <i>arrê-fee-fief</i> , and in what District situate.	Date of original grant.	By whom granted.	To whom granted.	State the extent of the seigniority or <i>Fief</i> , its dimensions, contents in square arpents, and its <i>tenants et habitants</i> fully.	State the terms, charges and conditions set forth in the original grant.
Vaudreuil.....	23rd Oct. 1702..	Same.....	Chevalier de Vaudreuil.	Same.....	Same.
Monnoir	25th March, 1708.	Same.....	Sieur de Ramsay.	<i>A titre de fief et seigneurie, haute, moyenne et basse justice, fishery, chase, and right of trade with savages.</i>	To give land for roads, fealty and homage and other dues and services according to the <i> Coutume de Paris</i> , to preserve oak trees, to keep and cause to be kept, <i>feu et lieu</i> , to settle property after the war. Reservation of land for forts
Augmentation of same making one seigniority.	12th June, 1739..	Same.....	Same.....	Same.....	" <i>Concéder à leur tenancier avec cens et rentes accoutumés.</i> "
De Ramsay.....	7th Oct. 1710....	Same.....	Same.....	<i>Fief et seigniorie, haute, basse et moyenne justice, chase, fish trade with Indians.</i>	To give land for roads, &c. Fealty and homage and dues and services, according to <i>Coutume de Paris</i> . Preservation of oak trees. Disclosure of mines. <i>Feu et lieu</i> . Settlement after the war. Reserve of lands for forts.
Montarville.....	17th Oct. 1710....	Governor for king.	M. Boucher.....	<i>Fief et seigneurie, haute, moyenne et basse justice, chase, pêche, trade with Indians.</i>	<i>Foi et hommage</i> , and other dues and services according to <i>Coutume de Paris</i> . Preserve oak trees, disclose mines, &c., <i>feu et lieu</i> , &c. To settle and clear immediately. Give land for roads. Reservation of ground for forts.
Lac des deux Montagnes.	17th Oct. 1717. confirmation by the King, 27th April 1718.	Governor for the Crown.	Seminary of Mont-real.	<i>Fief et seigneurie, haute, moyenne et basse justice, chase, pêche.</i>	To build a church and fort. <i>Foi et hommage</i> , and other dues and services according to <i>Coutume de Paris, feu et lieu</i> , &c. Preservation of oak trees, disclosure of mines, &c., to grant land for roads.

TABLES OF THE RATES AND CONDITIONS OF GRANTS OF SEIGNIORIES.—Continued.

Lac des deux Montagnes.	17th Oct. 1717. Confirmation by the King, 27th April 1718.	Governor for the Crown.	Seminary of Mont-real.	Fief et seigneurie, haute, moyenne et basse justice, chasse, pêche.	To build a church and fort. Foi et hommage, and other dues and services according to Coutume de Paris, feu et lieu, &c. Preservation of oak trees, disclosure of mines, &c., to grant land for roads.
Name of seignior or arrière-fief, and in what District situate.	Date of original grant.	By whom granted.	To whom granted.	State the extent of the seignior or Fief, its dimensions, contents in square arpents, and its tenants et aboutissants fully.	State the terms, charges and conditions set forth in the original grant.
Lac des deux Montagnes.	17th Oct. 1717. Confirmation by the King, 27th April, 1718.	Governor for the Crown.	Seminary of Mont-real.	Fief et seigneurie, haute, moyenne et basse justice, chasse, pêche.	De concéder les dits terres qui seront en bois debout à simple titre de redevances de 20 sols, et sur chacun arpent de terre de front un chapin pour chacun arpent de terre de front sur 40 de profondeur, et de 6 deniers de cens, sans qu'il puisse être usé dans les dites concessions, ni sommes d'argent ni aucune autre charge que de simples titres de redevance, suivant les intentions de Sa Majesté, leur permettant néanmoins Sa Majesté de vendre ou donner à redevances plus fortes les terres dont il y aura au moins un quart de défriché.
Augmentation of Lac des deux Montagnes.	26th Sept. 1733.	Governor for king.	Seminary of Mont-real.	Same as original grant.	Same as original grant, "de concéder aux cens et redevances accoutumés par arpent de terre de front sur 40 de profondeur."
Confirmation of both grants.	1st March, 1735.	The King.	Seminary.	ADDITIONAL.	ADDITIONAL.
					"Concéder aux cens et redevances accoutumés par chaque arpent de terre dans les seigneuries voisines, en égard à la qualité et situation des héritages au temps des dites concessions, ce que Sa Majesté veut aussi être observé pour les terres et héritages de la seigneurie du Lac des deux Montagnes appartenant aux dits Ecclésiastiques, nonobstant la fixation des dits cens et redevances, et de la quantité de terre de chaque concession, portée audit brevet de 1718."

TABLES OF RATES AND CONDITIONS OF GRANTS OF SEIGNIORIES.—Continued.

Name of seignior or arrière-fief, and in what district situate.	Date of original grant.	By whom granted.	To whom granted.	Nature of tenure.	Reservations and conditions made by grantors.
Lauson.....	15th Janr., 1638..	Company of New France.....	Sieur LeMaitre..	<i>En toute propriété, justice et sei- gneurie.....</i>	Faalty and homage, and a piece of gold on each mitation of possession, and one year's revenue of the property accruing by reason of grants <i>en fief on a titre de cens</i> . Not to carry on fur trade except agreeably to conditions of edict establishing company.
Beausport	15th Janr., 1634..	<i>Compagnie de la Nouvelle-France.</i>	Robert Giffard...	<i>En toute justice, propriété et sei- gneurie.....</i>	Faalty and homage, and a piece of gold on each mitation of possession, and one year's revenue of the property accruing by reason of grant to be made <i>en fief on a titre de cens</i> . Not to carry on fur trade except agreeably to conditions of edict establishing the company.
Beauharnois.....	12th April, 1729..	The King.....	Marquis de Beau- harnois and his brother.	<i>A titre de fief et seigneurie, haute, moyenne et basse justice, chasse, pêche et autres droits seigneuriaux. No right to trade.</i>	<i>Foi et hommage</i> , and other dues and services according to Custom of Paris. Preservation of oak trees; disclosure of mines; <i>feu et lieu</i> , &c., on pain of re-union to Royal domain, to cause land to be immediately settled and cleared; grant land for roads; reservation of ground for forts.
Foucault.....	3rd April, 1733, confirmed by the King, 6th April, 1734.	Govern. for King	Mr. Foucault....	<i>Fief et seigneurie, haute, moyenne et basse justice, pêche, chasse. Trade with Indians.....</i>	<i>Foi et hommage</i> , and other dues and services according to <i> Coutume de Paris</i> . Preservation of oak trees; disclosure of mines; <i>feu et lieu</i> , &c., on pain of re-union; to give land for roads. " <i>De concéder aux cens, rentes et redevances ac- coutumés par arpent de terre de front sur 40 de profondeur.</i> " Reservation of ground for forts.

TABLES OF RATES AND CONDITIONS OF GRANTS OF SEIGNIORIES.—Continued.

Name of seigniority or <i>arrière-fief</i> and in what district situate.	Date of original grant.	By whom granted.	To whom granted.	Nature of tenure.	Reservations and conditions made by grantors.
St. Hyacinthe.....	23rd Sept., 1748, confirmed 30th April, 1749.....	Govern. for King.	Sr. de Vaudreuil.	<i>A titre de fief et seigneurie, haute, moyenne et basse justice, chasse, pêche, traite avec les sauvages.</i>	Fealty and homage, and other dues and services according to <i>Coutume de Paris</i> . Preservation of oak trees; disclosure of mines; feu et lieu, on pain of re-union. " <i>Faire dériver incessamment, justifier des travaux qu'il y aura fait faire d'ici à l'automne prochain.</i> " " <i>Conséder à ses tenanciers, aux cens, rentes et redevances accom- pagnés par arpent de terre de front sur 40 de profondeur.</i> " Reservation of ground for forts.

confirmed by
the King, 5th
April, 1734.

et basse justice, pêche, chasse.
with Indians.....

on pain of re-union; to give land for roads.
"De concéder aux cens, rentes et redevances ac-
compagnés par arpent de terre de front sur 40 de
profondeur."
Reservation of ground for forts.

No. 128.

TABLES OF THE RATES AND CONDITIONS OF GRANTS OF LANDS *EN CENSIVE*.*Seigniory of Rivière Ouelle, District of Quebec.*

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. de la Boutellerie to Galiran S. Boucher.	28th July, 1676.	5 \times 40—200. Rent 10 <i>sols</i> for each arpent in front and 3 capons.....55 <i>sols</i> . for the whole.		
Same to Phil. Boucher.	7th July, 1677.	3 \times 20—60. Rent, 10 <i>sols</i> p. arpent in front and 2 capons for the whole, equal to....60 <i>sols</i> . or 1 <i>sol</i> for each arpent.		
Same to J.-Bte. Gagnon.	28th July, 1739.	3 \times 45—126. 1 <i>sol</i> of <i>cens</i> and 30 <i>sols</i> of rent for each arpent in front making.....93 <i>sols</i> .		
Pierre Gasgrain to Jn.-Bte. Dubé.	28th Novembre 1813.	2 \times 40—80. Rent, 5s. and one <i>sol</i> of <i>cens</i> for each arpent in front, equal to 10s. 1d. cy. for the whole.		Reservations of wood, and other materials for buildings. Prohibition to build mills. Reserve of six arpents to build mills. No indemnity unless for improvement on land taken.
Pierre T. Gasgrain to Léandre Rousselle.	7th December, 1836.	2 \times 40—80. Rent, 5s. each arpent in front..... 10s.		Same conditions and reservations.

Seigniory of Fleurie and St. Joseph in Nouvelle Brauce, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. de la Gorgendière to Aug. Cloutier.	17th May, 1743.	3 \times 40—120. Rent, 1 <i>sol</i> for each arpent in superficies.....120 <i>sols</i> . a capon or 15 <i>sols</i> p. arp. in front 45 " 3 <i>sols</i> de <i>cens</i> 3 " 108 <i>sols</i> .		Reservation of wood for churches, manor houses and buildings.

Seignior of Fleurie and St. Joseph in Nouvelle Beauce, District of Quebec.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. de la Gorgendière to Ang. Cloutier.	17th May, 1743.	Rent, 1 sol for each arpent in superficialities 120 sols a capon or 15 sols p. arp. in front 45 " 3 3 sols de cens 3 108 sols.		Reservation of houses and buildings.
J. M. Roy— <i>titre nouvel</i> et déclaration de reconnaissance.	22nd March, 1828.	2 perches 4 × 40 10 arpents. and 1 arpent and 1/2 × 40 60 " 70 arpents. Rent, 5 livres 1 sol for the whole.		Same reservation.
M. Taschereau to Noël Vachin.	15th April, 1841.	4 × 20—80. Rent, £1 0 2 cens et rentes, equal to 3d per arpent		Reservation of all mines, quarries, rivers and brooks, and the right of directing water courses, of taking land for mills or manufactories to the extent of 6 arpents, with an indemnity for improvements only, if there be any.
Wm. Torrance, et al. to Joseph Cloutier. <i>Titre nouvel.</i>	2nd July, 1833.	5 arpents × 40—200. Rent for 1 lot, 12s. 5d. currency.		Same reservations, with the exception of manufactories.

Seignior of Deschambault, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
La Gorgendière to Michel Paquin.	22nd October, 1744.	3 × 30—90. Rent, 22 sols, 6 den. for each arpent front 67 sols. 3 capons at 15 sols 45 " 5 Cens, 5 sols 5 117 "		Reservation of wood for manor and building.
Same to Antoine Merand.	22nd October, 1744.	3 × 30—90. Rent, 22 sols, 6 den. 67 3 capons at 15 sols 45 Cens, 5 sols 5 117		Same reservation.

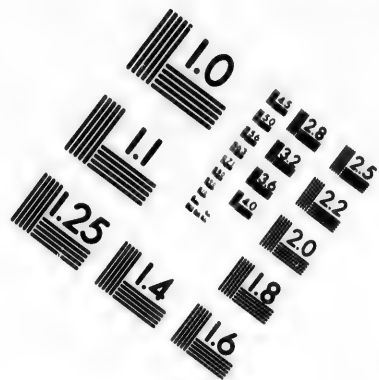
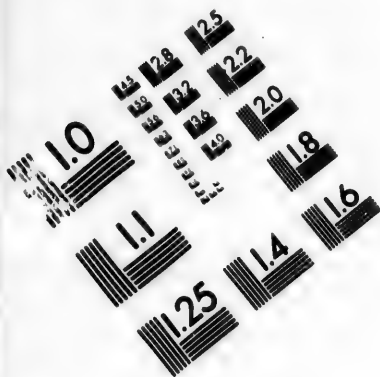
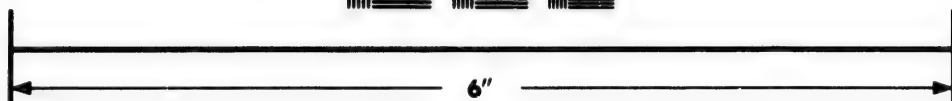
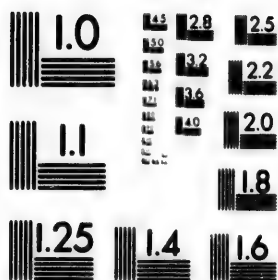


IMAGE EVALUATION TEST TARGET (MT-3)



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Seigniory of Deschambault, District of Quebec.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Same to Michel Paquin.	10th August, 1821.	2 arpents, 7 perches \times 30—80. 3..... \times 40—120. Rent, 22 <i>sols</i> , 6 <i>den.</i> for each arpent in front..... 69 <i>sols</i> 6 <i>d.</i> 3 capons as 15 <i>sols</i> , do .. 45 0 Cens, 4 <i>lie</i> . 6 <i>den.</i> 4 6 For 1st lot. 117 0 Same rate for second lot with the exception of the <i>cens</i> .		Same reservation.

Seigniory of Lachenaie, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Amable Bochet to Antoine Bonin.	13th December, 1841.	2 \times 31—62. Rent, 9 <i>lie</i> . 6 <i>sols</i> 192 Equal to 3 $\frac{1}{2}$ <i>sols</i> per arpent.		Reserve of wood and other materials for buildings of all kinds, directing water courses, &c. for mills.

Seigniory of Murray Bay, District of Quebec.

This Seigniory was conceded by the Crown in 1762.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
William Nairne to Joseph Gauthier.	15th October, 1821.	3 \times 40—120. Rent, 40 <i>sols</i> <i>Tournois de rente foncière</i> , and 1 <i>sol</i> of <i>cens</i> for each arpent in front, making 43 <i>sols</i> for each arpent in front or about 1 <i>sol</i> per arpent.		Reservation of wood for manor house, mills, buildings, &c., and of the rivers and all mill-seats.
Same to Same person.	15th October, 1821.	3 \times 40—120. Same rate.		Same reservations.

William Ramsay
to
Joseph Gauthier.

Rent, 40 *sols* *Tournois de rente foncière*, and
1 *sol* of *cens* for each arpent in front,
making 43 *sols* for each arpent in front
or about 1 *sol* per arpent.

15th October, 1821.

Same
to
Same person.

Same reservations.

mills,
buildings, &c., and
all mill-seats.

Seignior of Kamouraska, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens</i> et <i>rentes</i> .	Differences between the rates of <i>cens</i> et <i>rentes</i> .	Other conditions, charges and reservations on deeds of concession.
St. de la Donautais to J Bte Dionne.	24th June, 1745.	10 \times Rent, 1 <i>liv.</i> for each arpent in front... 120 <i>Cens</i> , 10 <i>sols</i> 10 130 There is a declaration in this concession saying that this rate is fixed for the future in other concessions.		Reservation of oak timber and wood for public and seigniorial buildings.

Seignior of St. Roch des Aulnats, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens</i> et <i>rentes</i> .	Differences between the rates of <i>cens</i> et <i>rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Me. de Tarte Ve. Ju- chereau to J. Bte. Gagnon.	15th March, 1712.	6 \times 40—240. Rent, 12 <i>liures</i> 240 <i>Cens</i> , 2 <i>sols</i> 2 242 1 <i>sol</i> an arpent.		Reservation of wood for public and seigniorial purposes.
Tire Novez, Mr. Ju- chereau to Alex. St. Pierre.	12th November, 1742.	4 \times 40—160. Rent, 6 <i>liures</i> 120 1 <i>sol</i> <i>cens</i> for each arpent in front,.... 4 124 less than 1 <i>sol</i> an arpent.		Same reservations.
Mr. Juchereau to Jean Amond.	14th December, 1753.	4 \times 42—168. Rent, 8 <i>liures</i> 160 2 <i>sols</i> <i>cens</i> 2 162 less than 1 <i>sol</i> .		Same reservations.

Seignior of St. Roch des Aulnets, District of Quebec.—(Continued.)

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Same to Louis Gauvin.	6th August, 1765.	4 × 42—168. Rent, 6 <i>sols</i> , 5 <i>den.</i> <i>sols</i> . <i>d.</i> Cens, 1 <i>sol.</i> 126 5 1 less than 1 <i>sol</i> per arpent. 127 5		Same reservations.
Same to Jean Peltier.	26th June, 1783.	3 × 40—120. Rent, 4 <i>livres</i> for each arpent in front. 240 12 <i>livres</i> 1 Cens, 1 <i>sol.</i> 1 241		Reserve of mill-sites in addition to the other reserves.
Same to Charles Primeau.	11th July, 1794.	Equal to 2 <i>sols</i> per arpent. 3 × 40—120. Rent, 4 <i>livres</i> for each arpent in front and 1 <i>sol</i> for each arpent, making about 2 <i>sols</i> per arpent.		Same reservations.

Seignior of Baie St. Paul, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Noël Simard to Jean Tremblay.	12th December, 1739.	4 × 35—140. 20 <i>sols</i> et 1 <i>chapron</i> on 20 <i>sols</i> for each arpent in front, making 4 <i>livres</i> and 4 capons—4 <i>livres</i> 8 <i>liv.</i> Equal to 1 <i>sol</i> and a fraction per arpent.		No reservation.
Joseph Drapeau to J. Bte. Tremblay.	15th December, 1792.	2 × 35—70. Rent, 2 <i>livres</i> and 4 <i>sols</i> for each arpent in front <i>liv. sols.</i> Cens, 2 <i>sols.</i> 4 10 For the whole, or a little more than 1 <i>sol</i> per arpent.		Reserve of all mill-sites.

Joseph Drapeau to J. Bte. Tremblay.	15th December, 1792.	2 \times 35—70. Rent, 2 <i>lires</i> and 4 <i>sols</i> for each arpent in front <i>Cens</i> , 2 <i>sols</i> 4 10 For the whole, or a little more than 1 <i>sol</i> per arpent.	Reserve of all mill-sites.
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Seigniory of Aubert-Gallion, District of Quebec.

Names of grantors and grantees.	Dates of original con- cessions to tenants.	Extent of land granted, in superficial ar- pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
George Pozer to Jon. Rodrigue.	28th January, 1832.	2 \times 40—80. Rent, 10 shillings and 4 <i>minots</i> of wheat and 1 <i>corvée</i> a 2s. 6d. Rent..... £0 10 0 Wheat..... 1 0 0 <i>Corvée</i> 0 2 6 Wheat is here valued a 5s. per <i>minot</i> . £1 12 6		Reserve of all rivers and streams, quarries, mines, six arpents of ground for every mill, timber for church, manorial build- ings, &c.
Same to Charles Letourneau.	27th May, 1842.	24 \times 30—70 Rent..... £1 10 0 1 <i>corvée</i> of..... 0 2 6 1 cord wood..... 0 5 0 £1 17 6		Obligation of <i>benalité</i> in saw mills and si- milar reservations.

Seigniory of Island of Orleans, District of Quebec.

Names of grantors and grantees.	Dates of original con- cessions to tenants.	Extent of land granted, in superficial ar- pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Rev. Bishop of Pétré to Robert Boulet.	26th February, 1629.	3 \times uncertain. Rent, 1 <i>liere</i> for every arpent in front 1 <i>sol</i> of <i>cens</i> 60 and for all 3 capons or 30 <i>sols</i> 3 90 153		
P. Poulin to J. Bte. Genet dit La- barre.	23rd November, 1825. <i>Tu. e-nouvel.</i>	3 \times uncertain. Rent, 8 <i>lires</i> , 16 <i>sols</i> . <i>Cens</i> , 3 <i>sols</i> .		

Seignior of Fossambault, District of Quebec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Mr. Duchesnay to Andrew Carney and William Mitchell.	8th September, 1824.	3 \times 50—150 arpents. Rent, 4d. for every superficial arpent—50s.....£2 10 0		Reserve of 4 arpents for erection of mills and manufactories, of making canals and dams and directing rivers, of all timber for erecting mills and manufactories, manor houses, churches, &c. Prohibition to build mills of any sort.

Seignior of Côte Ste. Geneviève, District of Québec.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession, not imposed by law.
Reverend Jesuits to J. Mellone dit Dumain.	27th February, 1652.	2 \times 24—48 arpents. 50 sols rent..... 50 2 capons equal to 30 80 Double <i>cens</i> . $\frac{1}{2}$		No reservations.
Same Seignior of Notre-Dame des Anges to Michel Gendron dit Lafontaine.	22nd April, 1658.	2 \times 30—60. Rent..... 60 2 capons..... 30 Double <i>cens</i> 4 <i>den.</i> sols..... 90 4 <i>den.</i>		Reservation by grantor of <i>coupe de bois</i> on 4 arpents.
Same to Pierre Denis, Esq., Sr. De la Ronde.	Notre-Dame des Anges 10th October, 1664.	4 \times 40—160. Rent, 5 <i>livres</i> 100 3 capons..... 45 145 <i>Cens</i> , 3 <i>deniers</i> 3 <i>den.</i>		Reservation of <i>coupe de bois</i> on half of the concession.

Same to Pierre Denis, Esq., Sr. De la Ronde.	Notre-Dame des Anges 10th October, 1664.	4 M 40—160. Rent, 5 liures..... 100 3 capons..... 45 Cens, 3 deniers..... 145 3 den.	Reservation of coupe de bois on half of the concession.
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Same Seigniority of Notre-Dame des Anges to Jacques Caillietan, Sr. de Champigny.	Notre-Dame des Anges 4th February, 1665.	2 M 40—80 Rent, 4 liures tournois..... 80 2 capons..... 30 Cens double..... 110 4 den.	Reserve of all wood on the whole concession, except fire-wood and wood for building for the tenant.
Reverend Jeanuis to Jean Dulaurent.	5th November, 1697.	4 M 10½—42. Rent..... 42 2 capons..... 30 Cens, 1 sol..... 1 72	Prohibition to sell timber—may use it for his own use on the farm.
Same to Pierre Perrin.	7th January, 1710.	2 M 20—40 Rent, 1 sol per arpent..... 40 2 capons..... 30 Cens, 2 sols..... 2 72	Reserve of all fine timber and same prohibition.
Same to Claude Vandandague.	After Ed. of 1711, 4th February, 1717, and down to 1799, all con- cessions alike.	Arpents..... 76½ Rent, 4 liures..... 80 4 capons a 15 sols..... 60 Cens, 2 sols..... 2 142	No reservation whatever of wood. No reservations after 1717 to 1799, except reserve of oak for His Majesty.

Seigniority of Rivière du Loup, District of Three Rivers.

Names of grantors and grantees.	Dates of original con- cessions to tenants.	Extent of land granted, in superficial ar- pents, and rates of cens et rentes.	Differences between the rates of cens et rentes.	Other conditions, charges and reservations on deeds of concession.
Monr. Beaubien to Jean Frs. Gerlaise.	11th September, 1711.	5 M 20—100. Rent, 3 liures..... 60 2 capons a 20 sols..... 40 Cens, 1 sol..... 1 101		No reservation.

Seignior of Rivière du Loup, District of Three Rivers.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Ursuline Nuns to Charles Auger.	8th May, 1724.	<p>5 \times</p> <p>Rent, 3 <i>lires</i>, 15 <i>sol.</i>..... 75</p> <p>2 <i>chapons</i> 4..... 50</p> <p><i>Cens</i>, 1 <i>sol.</i>..... 1</p> <p>126</p>		No reservation.
Same to Michel Lefebvre.	16th November, 1768.	<p>4 \times 30—120.</p> <p>Rent, 11 <i>lires</i>..... 220</p> <p><i>Cens</i>, 1 <i>sol.</i>..... 1</p> <p>221</p>		No reservation.
Same to Joseph Auger.	29th September, 1806.	<p>Quantity uncertain.</p> <p>Rate, 2 <i>sol.</i> of <i>cens</i> and 3 <i>sol.</i> for each superficial arpent.</p>		Reservation of all wood for churches, <i>presbytère</i> , mills, manor houses, public buildings—all pine timber for sawing, with liberty however to the grantees to take what was necessary for family purposes, and reservation of all mill-sites, grist and saw.

Seignior of Ste. Anne de la Pêrade, District of Three Rivers.

Names of grantors and grantees.	Dates of Original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. D'Orvilliers to Mat. Periot.	23rd June, 1713.	<p>4 \times 40—160 arpents.</p> <p>Rent, 2 bush. wheat..... 120</p> <p>2 capons or 1 <i>liure</i> each..... 40</p> <p><i>Cens</i>, 1 <i>sol.</i>..... 1</p> <p>161</p>		No reservation.
Sr. De Lanaudière to Pierre Lavesque.	24th May, 1715.	<p>3 \times 21—63 arpents.</p> <p>Rent, 14 capons..... 30</p> <p>14 <i>boisseau</i> wheat..... 90</p> <p><i>Cens</i>, 1 <i>denier</i>..... 1 <i>den.</i></p> <p>120 1 <i>den.</i></p>		Reservation of wood for grantor's manor and other buildings.

Sr. De Lauaudière to Pierre Lovesque.	24th May, 1715.	3 \times 21—63 arpents. Rent, 14 capons..... 30 14 boisseau wheat..... 90 Cens, 1 denier..... 1 den. Sols.. 120 1 den.	161	Reservation of wood for grantor's manor and other buildings.
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Sr. D'Orvilliers to Frs. Gariépy.	2nd June, 1720.	3 \times 40—120 arpents. Rent, 14 boisseau wheat..... 90 14 capon a 20 sols..... 30 Cens, 1 sol..... 1 121		No reservation.
De Lauaudière to Louis Serrallier.	9th August, 1771.	3 \times 30—90 arpents. Rent, 1 sol each arpent in superficies.. 90 3 capons or 10 sols each..... 30 Cens, 3 sols..... 3 1 day's corvée of 30..... 30 153		Reservation of oak timber and of all other wood for manor house and other build- ings.

Fief of Grandpré, District of Three Rivers.

Names of grantors and grantees.	Dates of original con- cessions to tenants.	Extent of land granted, in superficial ar- pents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Madame Simonet to François Carpentier.	26th June, 1749.	3 \times uncertain. Rent, 6 <i>lires</i> 10 sols..... 130 Cens, 1 sol..... 1 131		Reservation of wood for construction of church, presbytery, manor house, etc., and oak for the Crown.
Conrad Gugu to Pierre Pepin.	8th September, 1769.	3 \times 30—90. Rent, 2 <i>lires</i> , including the right of common..... 60 Cens, 3 sols..... 3 Sols.. 63		No reservation.
Barth. Gugu to Joseph Lemay.	9th November, 1795.	3 \times 30—90. Rent, 12 <i>lires</i> , 2 sols..... 242 sols.		Reservation of oak timber for Crown, for himself, of all wood, stone and water, for manor house, &c. Same reservations.
Louis Gugu to Jean Lesage.	20th January, 1812.	3 \times uncertain. Rent, 1 <i>minot</i> of blé et 4 <i>lin.</i> for every 40 in superficies, i. e. 10 <i>lires</i> for each 40 ar- pents in superficies—5 sols for each ar- pent.		
Same to Daniel Arnoldi, Esq.	15th February, 1802.	4 \times Rent, 4 <i>lires</i> and 1 <i>minot</i> de blé for every 40 arpents in superficies—to 3 sols of rent per arpent.		Reservations, an arpent of land for build- ing a mill and all wood necessary for construction of public and manorial buildings.

Fief of Grandpré, District of Three Rivers.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Louis Guy to Daniel Arnoldi, Esq.	5th April, 1802.	12 \times Rent, 2 <i>soles</i> and 1 <i>pinde</i> of wheat for each arpent in superficies, or 4 <i>livres</i> and 1 <i>minot</i> of wheat for each 40 arpents—to 5 <i>soles</i> per arpent.		Same reservations.
<i>Seignior of Nicolet, District of Three Rivers.</i>				
Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Michel Cressy. to Elis Provost.	17th June, 1678.	2 \times 40—80. Rent, 1 <i>chapon</i> for each arpent in front or 30 <i>soles</i> 60 2 <i>minots</i> of wheat..... 80 6 <i>deniers</i> of <i>cens</i> 6 <i>den.</i>		Reservation of oak, and timber for building houses and mills.
C. P. Cressy to Vincent Netier.	11th March, 1763.	4 \times 20—80. Rent, 8 <i>livres</i> 160 <i>Cens</i> , 2 <i>soles</i> 2 162 <i>Sols</i> .. 140 6		Same reservations.
P. Cressy to Fra. Desfontésa. Same to P. Desilets.	20th November, 1792. 11th February, 1799.	3 \times 25—75. Rent, 8 <i>livres</i> 15 <i>soles</i> <i>Sols</i> .. 175 3 \times 25—75 Rent, 2 <i>soles</i> and a <i>pinde</i> of wheat for each arpent—5 <i>soles</i> for each arpent 375 <i>Cens</i> , 2 <i>soles</i> 2 1 day of <i>corvée</i> or 1s. 8d..... 40 <i>Sols</i> .. 417 Or 2 $\frac{1}{2}$ per arpent.		Same reservations. Same reservations, and reserve of mill-sites, grist and saw—to plant a May Pole.

Cens, 2 *sols*..... 2
 1 day of *corvée* or 1s. 8d..... 40
Sols.. 417
 Or 2½ per arpent.

Seignior of Three Rivers, District of Three Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
<i>Compagnie de la Nouvelle-France</i> , to Jean Sauvage.	28th July, 1656.	5 \times 30—150. 6 <i>deniers</i> for each arpent..... 75 <i>sols</i> .		No reservation.

Seignior of St. Francois, District of Three Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Joseph Grevier to Pierre Gamelin.	5th July, 1690.	3 \times 25—75 with an Island, with the right of fishing and shooting. Rent, 8 <i>liures</i> 160 3 capons..... 45 <i>Cens</i> , 2 <i>deniers</i> 2 <i>den.</i> 205 2 <i>den.</i>		No reservation.
Same to Frs. Bibaud.	20th January, 1712.	Amount uncertain, with right of fishing and shooting. Rent, 5 <i>liures</i> 100 3 capons <i>a</i> 30 <i>sols</i> each..... 90 <i>Cens</i> , 1 <i>sol</i> 1 191		No reservation.
Same to Joseph Gagné.	25th May, 1729.	6 \times 40—240. Rent, 12 <i>liures</i> , 5 <i>sols</i> 245 3 capons <i>a</i> 20 <i>s</i> 60 <i>Cens</i> , 2 <i>sols</i> 2 307		No reservation.
Widow Grevier to Nich. Cartier.	30th June, 1735.	6 \times 25—150. Rent, 3 <i>liures</i> , 15 <i>sols</i> 75 3 capons <i>a</i> 20 <i>s</i> 60 <i>Cens</i> , 1 <i>sol</i> 1 136		No reservation.

Seignior of Fief Ste. Adelaide, River David, District of Three Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Josias Wurtele to Jos. Joyale.	22nd January, 1814.	3 \times 25—75. Rent, 3 <i>minots</i> of wheat £0 15 0 5 shillings 0 5 0 <i>Corvée</i> , 2 days 0 2 6 £1 2 6		Reservation all building materials for churches, mills, other houses, manor, &c., &c., public works, all land for mill-sites on indemnity, and diminishing the rent <i>pro rata</i> . Prohibition of building mills.
Same to Michel Drolet.	30th November, 1823.	3 \times uncertain. Rent, 4 <i>minots</i> of wheat 24 <i>livres</i> . 10 <i>livres</i> 10 <i>Cens</i> , 1 <i>sol</i> for every 75 arpents, equal to about 9 <i>sols</i> for each arpent, or 4½ d.		Reservations, the same.
Jos. Wurtele to Benjn. Thérien.	18th June, 1832.	3 \times 14—42. Rent, 24 <i>minots</i> wheat 11 3 6 <i>livres</i> 5 0 <i>Cens</i> , 1 <i>sol</i> 0 0½ 16 3½		Same reservations.

Seignior of Cap de la Magdelaine, District of Three Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Reverend Jesuits to Jacques Marchand.	24th March, 1666.	4 \times 40—160. Rent, 1 <i>boisseau</i> wheat <i>a</i> 40 2 capons 30 <i>Cens</i> , 4 <i>deniers</i> 0½ Sols.. 70½		Reservation of road on river, of 30 feet.
Same to Jean Lemoine.	4th May, 1697.	4 \times 4 ch. rent 60 4 <i>livres</i> money 80 <i>Cens</i> , 4 <i>deniers</i> 0½ 140½		Same reservation of road and prohibition of all timber except for his own purposes.

Same to Jean Lemoine.	4th May, 1697.	4 \times	<i>Sols..</i> 704	Same reservation of road and prohibition of all timber except for his own purposes.
		4 ch. rent.....	60	
		4 livres money.....	80	
		<i>Cens</i> , 4 deniers.....	04	
			1404	

Reverend Jesuits to J. Bte. Larose.	11th May, 1754.	4 \times 20—80.	80 60 2	Reservation of oak timber for His Majesty's ships—timber for mill and building.
Same to Jean Raymond.	2nd August, 1771.	4 \times 20—80. <i>Cens</i> , 2 <i>sols</i>	142	Reservation of timber for church, presbytery, manor-house and mills.
Same to Montizambert.	20th July, 1785.	4 \times 20—80. Rent, 2 <i>livres</i> for each arpent in front, 160 <i>Cens</i> , 3.....	120 3 123	Same reservation of oak for ships.
Same to Joseph Bonnette. Crown to Joseph Brooks.	23d November, 1797. 17th October, 1831.	3 \times 20—60. Rent, 3 <i>livres</i> , 9 <i>sols</i> <i>sols</i> 69 3 \times 20—60. Rent, 1 <i>sol</i> per arpent..... 1 capon or 20 <i>sols</i> for each arpent in front by 20 in depth.....	60 60 60 120	Reservation of oak for ships, and wood, stone and water for the building of mills, manor-house, &c. and other repairs. Reservation of oak timber and materials for building churches, mills, public edifices, manor-house and all mill-sites on payment of value of ground, and a proportionate diminution of rent, and prohibition to build mills.

Seignior of Béancour, District of Three Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Ez. Hart to Fr. Robicheau.	12th September, 1809.	3 \times 15—45 superficies. Rent, 2 <i>sols</i> and 1 <i>pinde de blé</i> For each arpent a 3 <i>sols</i>	90 135 225	Reserve 1.—Every mutation the rent to be increased 1 <i>minot</i> of wheat. " 2.—Of all mill-sites without indemnity. " 3.—All mines, oak timber for the crown. And for himself all wood, stone, water, building of mill, manor-house, &c.

Signiory of Beancour, District of Three Rivers.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
François Baby to Louis Massé.	7th June, 1819.	Rent, 8 <i>lires</i> 24 160		Reserve of wood for the mill, and mill-sites, mines, oak, &c., similar to the above.

Signiory of Batiscan, District of Three-Rivers.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Reverend Jesuits to Benj. Anseau.	2nd May, 1667.	24 40—80. Rent, $\frac{1}{2}$ <i>boisseau</i> of wheat, value. 20 0 1 capon..... 15 0 <i>Cens</i> , 2 <i>deniers</i> 0 2 35 2		Reservation—to leave a road 30 feet wide on the bank of the river.
Same to Jos. Sémis.	11th July, 1686	84 21—168. Rent, 6 <i>lires</i> 120 6 capons..... 60 180		Same reserve of land, restriction of use of firewood to himself.
Same to Jean Darion dit Lafontaine.	10th April, 1711.	44 25—100. Rent, $\frac{1}{2}$ <i>sol</i> for each arpent..... 50 2 capons..... 40 2 <i>sols</i> of <i>cens</i> 2 92		Prohibition to sell all timber and wood on concession; tenant had right to use wood for his own purposes on the concession, but not otherwise—permission to manufacture timber on payment of 1-12th of value, all under certain penalties.
Same to Michel Arsonneau.	14th February, 1722.	64 20—120 Rent, 1 <i>minot</i> of wheat..... 60 2 capons..... 30 <i>Cens</i> , 1 <i>sol</i> 1 91 All concessions down to 1760 about same rate.	This is after the edict of 6th July, 1711.	No reservation whatever.

Same to 8th May, 1760. 44 1 *sol* for each arpent. Reservation of oak timber for H. M. ships and right of taking all.

Seignior of Rouville, District of Montreal.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. de Rouville to François Danais.	28th June, 1836. Confirming titles of September, 1815, and January, 1821.	About 3 \times 30—90. 2 arpents, 5 perches and 6 feet \times 6 arpents and 9 feet. Rent for the whole 6 <i>livres</i> , 9 <i>deniers</i> , 2 <i>mitrils</i> and 12 <i>poils</i> of wheat, 2 <i>corvées</i> . Rent..... <i>liv. sols. den.</i> Wheat..... 6 0 9 Corvées, &c..... 15 12 0 3 0 0 <i>livres</i> 24 12 9	Same reservations.	Same reservations.
Same to Emmanuel Vient.	3rd January, 1842.	3 arpents, 8 perches \times 3 arpents and 3 perches. Rent, 1 <i>livre</i> <i>par arpent en superficie</i> , and 1 <i>livre</i> 16 <i>sols</i> of <i>cens</i> .		Reservations.—Prohibition to build mills, manufactories, breweries or other machinery of any nature, moved or propelled by steam, water, wind or any other power, without permission of seignior. Reserves the right of all water power with the right of cutting canals the right of appropriating all mines, minerals, stone, marble and timber, the grantee prohibited from dealing in the same; right of hunting and fishing—all mill-sites and the right of taking all wood and stone for private and public uses.
Same to Ely Tétro.	11th January, 1842.	3 \times 2 arpents and 7 perches—10 arpents. Rent, 20 <i>sols</i> per arpent and 1 <i>livre</i> 16 <i>sols</i> of <i>cens</i> .		Same reservations.

Seignior of Belair, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Baroness of Longueuil to Thos. Senecal.	28th February, 1836.	1 arpent and 5 perches \times 30—45. Rent, £1 and one <i>minut</i> of wheat payable in Montreal, equal to £1 6 8 valuing wheat at 6s. 8d. Condition also that the grantee and his assigns shall be always liable personally even in cases of sale, and this condition is repugnant to the <i>baill à cens</i> .		Reservations.—Prohibition to build mills, manufactories, breweries or other machinery of any nature, moved or propelled by steam, water, wind or any other power, without permission of seignior. Reserves the right of all water power with the right of cutting canals the right of appropriating all mines, minerals, stone, marble and timber, the grantee prohibited from dealing in the same; right of hunting and fishing—all mill-sites and the right of taking all wood and stone for private and public uses.

grantees. Baroness of Longueville	cessions to tenants. 28th February, 1836.	1 arpent and 5 perches $\times 30 = 45$. Rent, £1 and one <i>minot</i> of wheat payable in Montreal, equal to £1 6 8 valuing wheat at 6s. 8d. Condition also that the grantee and his assigns shall be always liable personally even in cases of sale, and this condition is repugnant to the <i>baill à cens</i> .	reservations. chies, manor houses and other buildings, right of taking land for construction of mills on paying for improvements if any are made.
Thos. Senecal			

Same to Antoine Guyon.	28th February, 1838.	45 arpents in superficies. Rent, £1 0 0 and 2 <i>minots</i> of wheat, equal to (valuing wheat a 6s. 8d.)..... £1 13 4	Same conditions and reservations.
Same to Mess. Primeau.	19th July, 1839.	45 arpents in superficies. Rent, £1 0 0 and 2 <i>minots</i> of wheat, equal to..... £1 13 4	Same conditions and reservations.

Seigniorie of Foucault or Lacolle, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
General Christie to William Wilson.	7th January, 1791.	112 arpents in superficies. Rent, 39 <i>livres</i> 4 <i>sols</i> £1 12 8 1 day's <i>corvée</i> or 5s..... 0 5 0 £1 17 8		The right of directing water courses for mills, all timber and material for building purposes public and private. Prohibition to build mills, a log pool saw-logs—reservation of six arpents for construction of mill on payment for the improvements if any should happen to be made.
Same to Peter Maston.	8th September, 1796.	4 \times 29—112. Rent, 39 <i>livres</i> 4 <i>sols</i> , and 4 <i>sols</i> of <i>cens</i> £1 12 10 <i>Corvée</i> , 5s..... 0 5 0 £1 17 10		Same conditions and reservations as the last.
General Burton to Nel. Hotchkiss.	11th March, 1816.	2 lots of 4 \times 28—224. Rent, £5 12s. 4d. for the whole concession, that is at 6d. per arpent.		Same reservations and conditions.
General Burton to Hotchkiss.	28th March, 1817.	4 \times 28—112 Rent, the same at 6d. per arpent.		Same conditions.
General Burton to George Hay.	25th February, 1834.	4 \times 45—180. Rent, 44d. per <i>arpent</i> and 1½ for <i>cens</i> £3 8 0 In addition the concession states that the lot was improved, having been formerly granted and retroceded. The grantee undertook to pay £250 for the concession which was paid as appears by the receipt on the deed.		Conditions, the same.

Seignior of Noyan, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
General Christie to Garrette Barron.	8th October, 1792.	128 arpents in superficies. Rent, 44 <i>livres</i> , 16 <i>sols</i> £1 17 4 1 day's <i>corvée</i> or 5d..... 0 5 0 £2 2 4		Reservation of all wood for public and manorial purposes, reserve of pine and oak for masts, etc. Prohibition to export from the seignior any saw-logs. The right to direct all water courses and right of mills.
Same to James Struthers.	15th July, 1797.	4 \times 23 and 5 perches—92d. Rent, 24 <i>livres</i> , 3 <i>sols</i> £1 0 14 <i>Cens</i> , 4 <i>sols</i> 2 0 2 £1 0 3½ The rent in these cases, if paid in dollars or crowns, is to be paid or reckoned, the crown at 5s. and the dollar at 4s. 4d.		Same reservations.

Seignior of Beauharnois, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Sr. de Beauharnois in Jean-Bte. Laviolette.	9th February, 1759.	3 \times 30—90. Rent, 4 <i>minots</i> of wheat and 30 <i>sols</i> for each arpent in front by 30 in depth.. 120 <i>sols</i> . Valuing the wheat at 3 <i>livres</i> a <i>minot</i> . 2 \times 40—80. Rent, 4 <i>minots</i> of wheat..... £1 0 0 And 9 <i>livres</i> 0 7 6 <i>Cens</i> , 2 <i>sols</i> 0 0 1 £1 7 7 Equal to about 4½d. for each arpent.		Reservation of wood necessary for public and manorial buildings and fencing, and wood for building for himself.
Alex. Ellice, Esquire, to Jacques Tessier.	25th January, 1799.			Reservation of all wood and materials for public and manorial buildings—of all oak and other timber for ships and pine masts, prohibition to carry beyond the limits of the seignior all saw-logs, allowing <i>cens/aire</i> to use timber for his own purposes, right to take lands for mills on paying the costs of culture alone.

<p>to Jacques Tessier.</p>	<p>Rent, 0 7 6 And 9 <i>lires</i>..... 0 0 1 <i>Cens</i>, 2 <i>sols</i>..... £1 7 7 Equal to about 4½d. for each arpent.</p>	<p>mests, prohibition to carry beyond the limits of the seigniorly all saw-logs, allowing <i>casé/are</i> to use timber for his own purposes, right to take lands for mills on paying the costs of culture alone.</p>
<p>The Hon. J. Richardson, cur. to Geo. Ellice to Antoine Tessier. Alex. Ellice to William Ralston.</p>	<p>30th August, 1824. 30th April, 1802.</p>	<p>Same reservation.</p>
<p><i>Titre-Nouvel</i> by the Rt. Hon. E. Ellice to Robert Brodie. <i>Titre-Nouvel</i> by same to Robt. Orr Wilson. <i>Titre-Nouvel</i> by the Rt. Hon. E. Ellice to Robert Brodie.</p>	<p>A lot of irregular figure, and about 15 arpents in superficies. Rent, 5 <i>lires</i> and 1 <i>minot</i> of wheat, equal to about 9s. 2d. valuing wheat at 5s. Rent, in the year 1802-3-4, 2d. for each arpent. 1805-6, 5s. for the lot. 1807-8, 10s. do. 1809, thence forward 25s. and 5 <i>minots</i> of wheat, making with the wheat at 5s..... £2 10 0 4 × 25—100. Rent, 30 <i>lires</i> and 5 <i>minots</i> of wheat, valuing wheat at 5s. is equal to. £2 10 0 2 × 50½—100. Rent, 40 <i>lires</i> 2 <i>sols</i> and 5 <i>minots</i> of wheat. 4 × 25—100. Rent, 25s. and 5 <i>minots</i> of wheat £2 10 0.</p>	<p>Prohibition to build mills of any kind, condition to levy by distress for all arrears of rent and reserves of all mill-sites. Reservations, as in the case of Tessier of 25th February, 1799. Same conditions. Reservation of timber for public purposes and of mines, &c. for manor house, &c.</p>
<p>Seignior of Terrebonne, District of Montreal.</p>	<p>Differences between the rates of <i>cens et rentes</i>.</p>	<p>Other conditions, charges and reservations on deeds of concession, not imposed by law. Prohibition to build any grist or saw mill without the permission of seignior, and reservation by seignior of all water privileges for those mills, all stone for mills, and other purposes. Same reservations.</p>
<p>Names of grantors and grantees. F. De la Valtrie to Fm. Godard.</p>	<p>Dates of original concessions to tenants. 15th June, 1780.</p>	<p>Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i>. 2 & 6 feet by 4—80 & 220 feet. Rent, 2 <i>sols</i>..... 160 5 <i>sols</i> of <i>cens</i>..... 5 <i>Sols</i>.. 165 Rates declared in concession to be suivant l'usage et l'ancienneté coutume suivis en ce pays.</p>
<p>Same to André Gauthier.</p>	<p>9th July, 1782.</p>	<p>Same rent; Same declaration.</p>

Seignior of Terrebonne, District of Montreal.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession, not imposed by law.
B. Mackenzie to Neil Gille.	30th December, 1822.	<p>3 × 22½—67.</p> <p><i>Cens</i>, 5 <i>sols</i>..... 5</p> <p>Rent, 2 <i>sols</i>..... 134</p> <p>4 bushel wheat for every 20 superficial arpt. 8d. at 6s. 8d. a <i>minot</i> 244</p> <p>12s.. 483</p> <p>20s.. 40 1½</p> <p>£2 0 1½</p>		<p>Reservation.—Right to change all water courses for milling purposes, <i>à titre nouvellé</i> at the expense of tenant on every mutation of seignior, right of taking all timber, stone and other materials for all mills, manor and other houses, and all other improvements on domain of seignior, besides for public purposes without indemnity, of all mill-sites and ground for that purpose, prohibition to build mills of very description whatever without leave.</p>

Seignior of St. Hyacinthe, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
M. Dessaulles to Fr. X. Carnet acceptant for Alexis Dessels.	22nd September, 1834.	<p>1½ × 37 arpents—55½.</p> <p>Rent, 1 <i>sol</i> 4 <i>deniers</i> for each arpent in superficies..... s. d. 74 10</p> <p><i>Cens</i>, 2 <i>sols</i>..... 2 0</p> <p>2 <i>covées</i>, at 3 <i>livres</i>..... 76 10</p> <p>120 0</p> <p><i>Sols</i>.. 196 10</p> <p>Nearly 4 <i>sols</i> per arpent.</p>		<p>Reserves.—All pine and oak timber, all wood, stone and materials for building churches, mills, manorial buildings, forges and manufactories, all fire-wood on 1 arpent in every 20.</p> <p>Res.—Mines, minerals and all mineral waters, of 6 arpents for building mills, manufactories, forges and other machinery, of working all mines, minerals, &c. and land for building church school, and other public purposes. The right of directing and detaining all waters. Prohibition to build any mill, or any machine or manufactory by water.</p>

other public purposes. The right of erecting and detaining all waters. Prohibition to build any mill, or any machine or manufactory by water.

(Nearly 4 *sols* per arpent.

Seigniory of L'Acadie, Barony of Longueuil, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
David A. Grant, Esq. to Thomas Busby.	30th May, 1800.	<p>4 \times 28—112.</p> <p>Rent, 1 <i>sol tournois</i> per arpent.... 112</p> <p>4 <i>minot</i> of wheat for each 20 arpents and 5s. equal to 3 <i>sols</i> per arpent..... 336</p> <p><i>Cens</i>, 3 <i>sols</i>..... 3</p> <p>2) 451</p> <p>12) 225½</p> <p>18s. 9½</p> <p>Observations.—It appears by a deed of the 9th March 1801, that the said Busby, said to have been the agent of the grantor, sold the same land to one J. Bte. Surprenant for 140 <i>livres</i> court.</p>		Reservation of wood and other materials for buildings of public and manorial buildings without indemnity. The right of taking the land for all mill purposes upon paying for the cost of culture, if any have been incurred, and diminishing the rent <i>pro rata</i> .
Baroness of Longueuil to Joseph Piedalue.		<p>4 \times 28—112.</p> <p>Rent, 1 <i>sol</i> for each arpent..... 112</p> <p>and 4 <i>minot</i> of wheat for each 20 arpents..... 336</p> <p><i>Cens</i>, 2 <i>sols</i>..... 2</p> <p>2) 450</p> <p>12) 225</p> <p>18s. 9d.</p>		Same reservations.

Seignior of Sabrevois, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
General Burton to Eloi Roy.	17th November, 1717.	3 lots of Land. 4 arpents each by different depths. Rent, 9 1/14 <i>sols</i> for each arpent in superficies, and 1 <i>sol</i> of <i>cens</i> for each arpent in front. Equal about to 5d. per arpent.		Reservation of all wood for public and memorial buildings. Prohibition to build mills of any kind—reserve of oak and pine for masts for the crown, and reserve of all mill-sites, and six arpents for building mills on paying indemnity if the ground be improved, with a <i>pro rata</i> diminution of rent.
Two other concessions in same seignior on same day.		Same rates.		Same reservations.

Seignior of De Léry, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
General Christie to Etienne Dumas.	21st March, 1791.	4 \times 22 $\frac{1}{2}$ —90. Rent, 11 <i>livres</i> 7 <i>sols</i> for 90 arpents, and 1 <i>sol</i> <i>cens</i> for each arpent in front. Equal to 11 <i>livres</i> , 11 <i>sols</i> 9s. 7 $\frac{1}{2}$ d.		Same conditions as in the seignior of Sabrevois.
General Burton to Cons. Carrier.	23rd June, 1801.	4 \times 28—112. Rent..... 19 3 <i>Cens</i> , 1 <i>sol</i> $\frac{1}{2}$ 19 3 $\frac{1}{2}$ In these concessions, it is stipulated that the rent if paid in coin, the Spanish dollar shall be taken at 4s. 4 $\frac{1}{2}$ d. and the French Crown at 5s.		Same reservations.
Same to James Ogden.	4th October, 1827.	Emplacement at Napierville, 1 arpent, 20 perches in superficies for..... £1 4 0		Same reservations.

			In these concessions, it is stipulated that the rent if paid in coin, the Spanish dollar shall be taken at 4s. 4d. and the French Crown at 5s.		Same reservations.
Same to James Ogden.	4th October, 1827.		Emplacement at Napierville, 1 arpent, 20 perches in superficies for..... £1 4 0		

General Eurtion to M. A. Daunais.			Same conditions.		
General Eurtion to M. A. Daunais.	26th November, 1835.	2 Emplacements, each containing 110 perches, 10 shillings for each arpent in superficies, and $\frac{1}{4}$ of cens, making for the whole..... £1 2 1			
Seigneurie of Monnoir, District of Montreal.					
Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of cens et rentes.	Differences between the rates of cens et rentes.	Other conditions, charges and reservations on deeds of concession.	
Sir J. Johnson to Louis Louselle.	23rd June, 1801.	<p>2 \times</p> <p>Rent, 1 sol for each arpent, $\frac{1}{4}$ minot of wheat for every 20 arpents in superficies, equal to 2d. an arpent, charging the wheat at 5s. per minot.</p> <p>9 \times 30—270</p> <p>Rent, 6 livres, &c..... 120</p> <p>1 minot of wheat for every 30 arpents in superficies..... 1080</p> <p>1 day's corvée with 2 horses, or 5s..... 120</p> <p>120) 1320</p> <p>4) 11</p> <p>£2 15s.</p>		Usual reservation of timber for the crown, for public and manorial buildings, also a reservation of all pine timber and mill-sites for granary, allowing grantees to take timber for his own purposes, all without indemnity.	
Same to John Johnson.	20th March, 1820.	<p>9 \times 30—270</p> <p>Rent, 6 livres, &c..... 120</p> <p>1 minot of wheat for every 30 arpents in superficies..... 1080</p> <p>1 day's corvée with 2 horses, or 5s..... 120</p> <p>120) 1320</p> <p>4) 11</p> <p>£2 15s.</p> <p>or nearly 5 sols for each superficial arpent.</p>		Reservation of all mill-sites without indemnity, of all description of wood, lime-stone and other materials for building public and manorial mills, and the use of his farms, all without indemnity. Special reserve of all pine and cedar wood allowing grantees to take for his own use.	
Same to Etienne Poulin.	19th May, 1823.	<p>3 \times 30—90.</p> <p>Rent, 1 sol for each arpent..... 90</p> <p>and $\frac{1}{4}$ minot de blé for 20 arpents, 3 sols per arpent..... 270</p> <p>Cens, 2 sols..... 2</p> <p>362</p> <p>4 sols per arpent.</p>		Reservation of all wood for public and manorial buildings, all oak for the crown, all pine for sawing for the seignior with use however to <i>ensuite</i> , all mill-sites.	
Same to James McGee.	9th September, 1823.	<p>3 \times 30—90.</p> <p>Rents, 1$\frac{1}{2}$ and 1 minot of wheat for every 30 arpents..... £1 10 0</p> <p>Cens, 2 sols..... 0 0 1</p> <p>£1 10 1</p>		No reservation.	

Seignior of Monnoir, District of Montréal.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession.
Hon. J. B. Rolland to Louis Ostigny.	3rd November, 1827.	2 lands 3 \times 30—90. <i>Cens</i> , 2 <i>soles</i> . Rent, 7 <i>livres</i> for every 90 arpents in superficies and $\frac{1}{4}$ <i>minot</i> wheat for every 20 arpents, equal to 4 <i>soles</i> and $\frac{1}{4}$ for each superficial arpent. — Besides the rent the grantee binds himself to pay to the seignior the capital sum of 900 <i>livres</i> . — A piece of ground is granted at the rate of 1 <i>minot</i> of wheat and one Spanish dollar for every 40 superficial arpents, and reckoning the wheat at 5s. would be equal to 4d. per arpent. In all these concessions the wheat is valued at 5s.		Reservation of oak for all public and manorial buildings without indemnity.
Same to Jos. Rainville.	5th March, 1829.			Reservation of all mines, mill-sites, without indemnity, and all timber and other materials for public and manorial buildings.

Seignior of the Island of Montréal,—Côte St. Sulpice, District of Montréal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession, not imposed by law.
Seminary of Montréal to Bernard Belair.	4th May, 1681.	8 arpents \times 20—160. <i>Cens</i> , 6 <i>deniers</i> for each arpent... 80 <i>soles</i> . Rent, $\frac{1}{4}$ <i>minot</i> wheat for each 20 arpents, 4 <i>minots</i> 160 240 <i>soles</i> .	There is a judgment of the <i>Cour Royale</i> of Montréal, 8th May, 1699, adjudging arrears under this deed valuing the wheat at 3 <i>livres</i> .	Reservation of front road of 36 feet, and ground for other roads, and of the right of cutting fire-wood and timber at will of the grantor.

Seminary of Montreal to Bernard Belair.	4th May, 1681.	8 arpents \times 20—160. <i>Cens</i> , 6 <i>deniers</i> for each arpent..... 80 <i>sol.</i> Rent, $\frac{1}{2}$ <i>minot</i> wheat for each 20 160 arpents, 4 <i>minots</i> 240 <i>sol.</i>	There is a judgment of the <i>Cour Royale</i> of Montreal, 8th May, 1699, adjudging arrears under this deed valuing the wheat at 3 livres.	Same reservations.
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The same
to
Pierre Sabourin.

3 \times 20—60 arpents. <i>Cens</i> , 6 <i>deniers</i> each arpent..... 30 <i>sol.</i> Rent, $\frac{1}{2}$ <i>minot</i> wheat..... 30 60 <i>sol.</i>

Seignior of Laprairie de la Magdeleine, District of Montreal.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession, not imposed by law.
Reverend Jesuits to Jean Bouthillier.	24th June, 1672.	2 \times 20 arpents—40 arpents superficies. 1 <i>sol</i> of <i>rente</i> each arpent..... 40 <i>sol.</i> 2 capons, equal to..... 30 <i>Cens</i> , 2 <i>deniers</i> 16 <i>Sol.</i> .. 70 16s		Reservation of right to cut wood for all their wants, fire-wood excepted.
Same to André Marcell.	26th November, 1679.	4 \times 20—80 arpents. Rent, 2 <i>minots</i> of wheat..... 80 <i>sol.</i> <i>Cens</i> , 4 <i>deniers</i> 04 <i>Sol.</i> .. 804		Same reservation.
Same to	11th June, 1699.	2 \times 30—60 arpents. Rent, 3 <i>livres</i> 60 <i>sol.</i> 2 capons valued..... 40 <i>Cens</i> , 1 <i>sol</i> 1 <i>Sol.</i> .. 101		Same reservation.
Same to Antoine Rougy.	7th June, 1712.	3 \times 20—60. Rent, 1 <i>sol</i> each arpent..... 60 <i>sol.</i> 3 capons or..... 60 <i>Cens</i> , 1 <i>sol</i> 1 <i>Sol.</i> .. 131		Same reservation.
Reverend Jesuits to J. B. Foucher.	23rd July, 1754.	4 \times 30 arpents—120. Rent, $\frac{1}{2}$ <i>minot</i> for each 20 arpents.. 90 <i>sol.</i> 1 <i>sol</i> each arpent..... 120 <i>Sol.</i> .. 210		Same reservation.

Seignior of Laprairie de la Magdeleine, District of Montreal.—Continued.

Names of grantors and grantees.	Dates of original concessions to tenants.	Extent of land granted, in superficial arpents, and rates of <i>cens et rentes</i> .	Differences between the rates of <i>cens et rentes</i> .	Other conditions, charges and reservations on deeds of concession, not imposed by law.
Reverend Jesuits to Frana. Brosseau.	1768.	<p>3 \times 30—90.</p> <p>Rent, 1 <i>sol</i> each arpent..... 90 <i>sols</i>.</p> <p>4 <i>minot</i> wheat each 20 arpents 24 135</p> <p><i>Cens</i>, 3 <i>sols</i>.</p> <p>225 <i>sols</i>.</p>		Same reservation.
Same to Pierre Babin.	14th March, 1799.	<p>3 \times 23 <i>sept perches</i>—70 arpents.</p> <p>Rent, 1 <i>sol</i> for each arpent..... 70 <i>sols</i>.</p> <p>1 quart of wheat for each arpent.</p> <p><i>Cens</i>, 3 <i>sols</i>.</p>		Reserving right of cutting wood and taking stone, lime and sand for public purposes, manor and other house and mills. Prohibition to build mill of any description.

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